
Oakland Police Department
Office of the Inspector General



Combined 2nd and 3rd
Quarterly Progress Report
April - September, 2019

Oakland Police Department
Office of Inspector General

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Introduction

Included in the Office of Inspector General's (OIG) 2019 *Combined 2nd and 3rd Quarterly Progress Report* are a review of the timeline requirements for employee misconduct complaint investigations and a review of 2018 vehicle pursuits.

The Department's *Complaints Against Department Personnel or Procedures* policy (Department General Order M-03, effective date 22 Dec 17) requires that complaints of employee misconduct are investigated and approved within 180 days. The Department had accumulated a backlog of cases waiting for review since late 2018 and had fallen out of compliance with meeting the 180-day timeline for cases resulting in a formal finding. This review was initiated to determine what contributed to the backlog and timeline issue and how to minimize the risk of falling out of compliance in the future.

The OIG also conducted a review of 2018 vehicle pursuits due to a 75 percent increase in the number of pursuits between 2017 and 2018. The purpose of this review was to identify factors that contributed to the significant increase, as well as exploring ways to mitigate risks associated with vehicle pursuits.

Respectfully,



Kristin Burgess-Medeiros
Acting Inspector General

Review of Class I and Class II Employee Misconduct Complaint Investigations that Exceeded 180 Days

By Auditors Charlotte Hines, Rebecca Johnson and Kristin Burgess-Medeiros

Objectives

1. Identify trends and/or patterns which may have contributed to investigations involving allegations of Class I and Class II employee misconduct offenses and approved by the Internal Affairs Division Captain or Chief of Police from January 1, 2018 to June 30, 2019 to exceed the Oakland Police Department's 180-day timeline.
2. For investigations approved by the Internal Affairs Division Captain or Chief of Police from January 1, 2018 to June 30, 2019, determine whether any extensions had an impact on investigations exceeding the 180-day timeline.
3. For all Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, determine whether the discipline conference process was completed within 30 calendar days of the sustained findings' respective approval dates.
4. For all Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, determine whether employees were notified of discipline to be imposed within 30 calendar days of the respective discipline conferences.
5. For all Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, determine whether the investigations were completed and discipline imposed within 365 days as mandated by the State of California.

Key Strengths

- ✘ The discipline conference process for 95% of the 112 investigations with sustained findings was completed within 30 calendar days of the sustained findings' respective approval dates.
- ✘ In all (100%) 112 investigations with sustained findings, employees were notified of their discipline within 30 days of the respective discipline conferences.
- ✘ All investigations with sustained findings met the requirements of the State of California Government Code Title 1, Division 4, Chapter 9.7 Public Safety Officers, Section 3304.

Key Weakness

- ✘ The absence of an established, documented benchmark for each unit, section, division and bureau's handling of an investigation is a contributing factor to investigations involving allegations of Class I and Class II employee misconduct offenses and approved by the Internal Affairs Division Captain/Chief of Police from January 1, 2018 to June 30, 2019 to exceed the OPD's 180-day timeline.

Key Recommendation

- The OPD should invest in a case management system to ensure more effective and/or efficient methods of tracking investigations' progress and status, allowing for the early detection of issues or concerns that could cause delays and increase the potential to exceed the 180-day timeline.

Executive Summary

The Oakland Police Department’s Internal Affairs Division (IAD) is responsible for ensuring all complaints regarding allegations of employee misconduct are investigated and approved by the Internal Affairs Division Captain or Chief of Police within 180 days. Over the last year, IAD has not been routinely meeting this goal, causing the OPD to fall out of compliance with its policy. Since late 2018, the IAD had been monitoring a backlog of cases waiting for review, and in Spring 2019, the Department began allocating additional personnel to help eliminate the backlog. With the knowledge that the Department was struggling to comply with investigative timelines, the OIG initiated a review to determine what contributed to the timeline issue and how to minimize the risk of falling out of compliance in the future.

A misconduct complaint is one in which a complainant(s) alleges a specific act or omission by an employee, and if the charge is substantiated, would constitute a violation of the Oakland Police Department’s (OPD) *Manual of Rules*. There are two types of misconduct complaints, Class I and Class II. Class I offenses are the most serious allegations of misconduct and, if sustained, shall result in disciplinary action up to and including dismissal and may serve as the basis for criminal prosecution. Class II offenses include all minor misconduct offenses.¹ Whether a Class I or Class II misconduct complaint, the OPD’s timeline for completion of the investigation is 180 days.

Beginning with the most recent audit regarding IAD’s timelines of complaint investigations, the OIG referenced its [Combined 1st and 2nd Quarterly Progress Report](#), dated January to June 2018, and reviewed the findings in the published audit report entitled *Timeliness of Investigations Involving Allegations of Employee Misconduct*. Summarizing the report, the auditor reviewed the timeline of all investigations approved by the Internal Affairs Division Captain or Chief of Police in 2017. The population consisted of 466 formal investigations (175 Class I’s and 291 Class II’s) and 433 (93%) of them were approved within 180 days. The average number of days to complete the 33 investigations that exceeded the 180-day timeline was 237 days. In addition, there was a population of 51 informally resolved complaints, all Class II’s, and 50 (98%) of them were approved within 180 days.

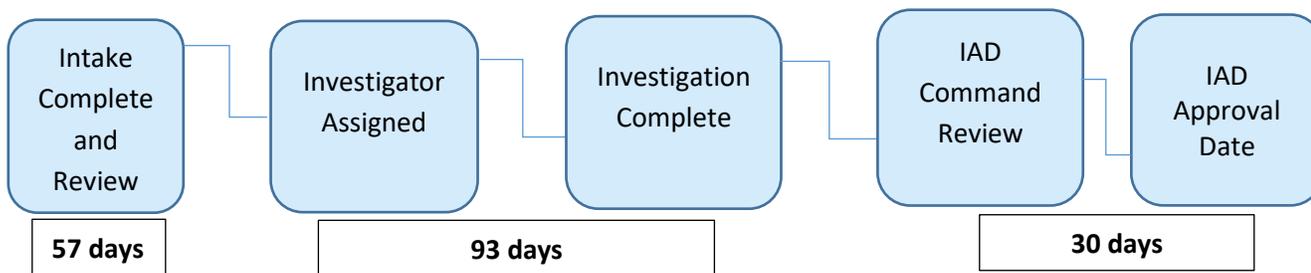
Although OIG’s most recent audit found 2017 complaint investigations in compliance with the 180-day timeline, the OIG, seeking to determine when IAD began having issues, analyzed the number of formal investigations approved within 180 days over a three-year period by breaking the numbers down into six-month increments, beginning with July 1, 2016. The results show that IAD began having issues meeting the timelines for formal investigations approved by the IAD Captain or Chief of Police during the first half of 2018.

Approval Dates	Number of Formal Investigations	Approved within 180 Days	% In Compliance	Approval Exceeded 180 Days	% Not in Compliance
Jul’16 – Dec’16	290	274	94%	16	6%

¹ Departmental General Order M-03, *Complaints against Departmental Personnel or Procedures*, effective December 22, 2017, pgs. 4-5.

Jan'17 – Jun'17	225	215	96%	10	4%
Jul'17 – Dec'17	242	219	90%	23	10%
Jan'18– Jun'18	221	148	67%	73	33%
Jul'18 – Dec'18	183	78	43%	105	57%
Jan'19 – Jun'19	239	73	31%	166	69%
Totals	1400	1005	72%	393	28%

The OIG sought to determine at what stage in the processing of a complaint did the process breakdown, causing investigations to exceed the 180-day timeline. The OPD's policy, Departmental General Order M-3, *Complaints against Departmental Personnel or Procedures*, states, in part, "...investigations shall be completed, reviewed, and approved within 180 days..." (pgs. 21-22). However, it does not state how much time is allotted to each unit, section, division, and/or bureau to complete their portion of complaint processing and investigation. Therefore, during the entrance conference with the IAD, the OIG Audit Unit Supervisor asked, "In a perfect world, when a complaint comes in, how much time would you prefer each unit have to complete their responsibilities?" The Investigative Section Commander proceeded to provide an overview of the process and a "perfect world" timeline, which the OIG used as a baseline to determine trends and/or patterns which may have contributed to investigations exceeding the 180-day timeline. The "perfect world" processing of complaints is as follows:



180 days to complete investigation

- 48 days for Intake Section
- 3 days for Intake and Administrative Section Commander
- 3 days for Police Records Specialist
- 3 days for Administrative Support Supervisor
- 93 days for Investigative Section Commander or for Division-Level Captain or Manager to assign investigator and to conduct and complete investigation.
- 30 days for IAD Administrative/Investigative Commander to review investigation for completeness or revisions, and if necessary, forwards to the IAD Captain, who also reviews investigation for completeness and revisions and approves the investigation if there are no sustained findings. If there are sustained findings, the IAD Captain, upon completion of his/her review, forwards the investigation to the Chief of Police for review and approval.

In July 2019, the OIG initiated a review based on six objectives, and the results were as follows:

Objective 1

Trends and/or patterns which may have contributed to investigations involving allegations of Class I and Class II employee misconduct offenses and approved by the IAD Captain or Chief of Police from January 1, 2018 to June 30, 2019 to exceed the Oakland Police Department's 180-day timeline are as follows:

- An unstable environment due to implementation of new technology, inevitable personnel changes in management, and not having effective controls to minimize the effects of such changes contributed to investigations exceeding OPD's 180-day timeline.
- In 77% of the sampled cases, the Intake Section's processing of complaints exceeded 48 days, rendering the process to range from 49 to 123 days.
- Upon the completion of the Intake Section's processing of a complaint, the OPD took 15 days or less before assigning an investigator to the case in only 58% of the sampled cases
- In 31 (60%) of the sampled cases, the assigned investigator completed the investigation within 93 days. However, for 30 of the cases, it took an additional 53 to 257 days to complete the IAD's Review Process and acquire the IAD Captain's/Chief of Police's approval.
- The Chronological Activity Logs are poorly documented, in that the reason(s) for any delay, such as a delay in the IAD's review process and/or acquiring the IAD Captain's/Chief of Police's review and approval of an investigation, are not explicitly stated.
- In 21 (40%) of the sampled cases, the assigned investigator exceeded 93 days to complete the investigation, and 16 of the cases took an additional 33 to 217 days to complete the IAD's Review Process and acquire the IAD Captain's/Chief of Police's approval.
- Dates are not routinely entered in PRIME's "Date the Investigator is Assigned" and the "Investigation Due Date" data fields, precluding the OPD the capability of easily determining the length of time it takes to assign an investigator to a case and how often investigators are adhering to the due dates.

Objective 2

Seven investigations' extensions negatively impacted the 180-day timeline by increasing the investigations 3 to 106 days beyond 180 days, and one had no documented reason for the extension.

Objective 3

The discipline conference process for 95% of the 112 investigations with sustained findings was completed within 30 calendars days of the sustained findings' respective approval dates.

Objective 4

In all (100%) of the 112 investigations with sustained findings, employees were notified of their discipline within 30 days of the respective discipline conferences.

Objective 5

All investigations with sustained findings met the requirements of the State of California Government Code Title 1, Division 4, Chapter 9.7 Public Safety Officers, Section 3304.

From January 1, 2018 to June 30, 2019, there were 171 informally resolved complaints, all Class II's, and 154 (90%) of them were approved within 180 days. Therefore, the OIG focused this audit solely on Class I and

Class II employee misconduct formal investigations that did not meet the 180-day timeline and omitted analysis related to vehicle collisions, informally resolved complaints, service complaints², and administratively closed cases³.

Background

IAD's AWARENESS of DELAYS

Because the Internal Affairs Division has not been routinely meeting the 180-day timeline, the Inspector General, the Audit Unit Supervisor and the Lead Auditor, during an entrance conference, met with three members of the IAD: the Intake and Administrative Section Commander, the Administrative Support Supervisor, and the Investigative Section Commander. During the conference, the Inspector General asked, "What is the cause of the delays"? The Investigative Section Commander, a former Intake and Administrative Section Commander, responded, "It is a cascade effect of processes that led to this problem:

- **The Implementation of OPD's Performance, Reporting, Information & Metrics Environment (PRIME)⁴**

IAD was shut down for more than a month. We could not do anything with PRIME, and it caused cases to build up." The Administrative Support Supervisor added, "We could not create cases and send them out." The Investigative Section Commander continued by stating, "PRIME went online in May 2017. In September, Intake Staff had caseloads of 50 to 60 complaints, which created a backlog. In addition, cases were spending 60 to 90 days in Intake. Data entry was slower. Every day, there were at least three complaints coming into IAD. The stack was growing, and we could not process them fast enough."

- **High Turnover in IAD Personnel**

Over the past three years, there has been a lot of turnover in IAD leadership positions. In May 2018, the IAD's Project Manager, who managed the Division Level Investigations (DLIs) Unit, left the organization. In addition, around the same time, the DLI Coordinator, a Sergeant, transferred to the Training Division. The current Intake and Administrative Section Commander, who transferred into the position in October 2018, is the sixth commander in this position in four years. Because of the steep learning curve for those new to working in the IAD, personnel turnover impacts the efficiency of processing and investigating complaints. Personnel turnover in combination with the implementation of new technology, also caused significant problems with tracking cases. Without a robust case tracking system, the department was vulnerable to missing timelines.

- **Reduction in Command-Level Positions**

During the exit conference, the Intake and Administrative Section Commander advised the OIG that, traditionally, there were three command-level positions responsible for investigations: an Intake and Administrative Section Commander, an Investigative Section Commander, and a Project Manager,

² Departmental General Order M-3, Complaints against Departmental Personnel or Procedures, defines service complaints as a complaint from any source regarding an inadequate policy, procedure, practice, service level, or legal standard or statute required of the OPD that would not result in discipline. (pg. 5)

³ Ibid., pgs. 1-2, Cases are administratively closed when concluding a service complaint or if at the conclusion of an investigation or preliminary inquiry it is determined the investigation or inquiry cannot proceed (i.e., subject no longer works for OPD; subject not employed by OPD at the time of the incident; complainant wishes to withdraw complaint and IAD commander has determined there is no reason to continue; etc.

⁴ The OPD's early warning system is used as a tool to monitor its employees' uses of force, complaints, assignments, etc.

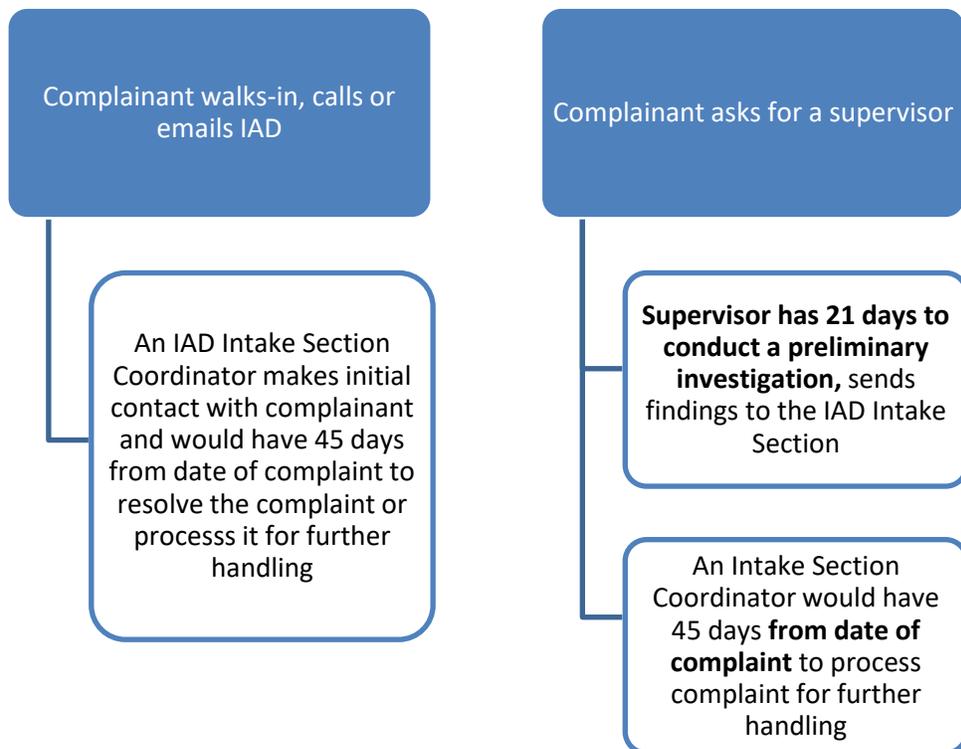
who managed the Division Level Investigations Unit. Since the Project Manager's departure in the second quarter of 2018, there have been only two command-level positions filled, an Intake and Administrative Section Commander and an Investigative Section Commander, causing the Intake and Administrative Section Commander to assume the duties of the Project Manager in addition to his own.

IAD's COMPLAINT PROCESS

The OPD's policy, Departmental General Order M-3, *Complaints against Departmental Personnel or Procedures*, states, in part, "...investigations shall be completed, reviewed, and approved within 180 days..." (pgs. 21-22). However, it does not state how much time is allotted to each unit, section, division, and/or bureau to complete their portion of complaint processing and investigation. Therefore, during the entrance conference with the IAD, the OIG Audit Unit Supervisor asked, "In a perfect world, when a complaint comes in, how much time would you prefer each unit have to complete their responsibilities?" The Investigative Section Commander proceeded to provide an overview of the process and a "perfect world" timeline:

Intake Section

Beginning with the date of complaint, this section would process the complaint within 45 days. Processing the complaint includes contacting the complainant, if necessary; creating a record of the complaint in the IAD complaint database; and reviewing body worn camera video and/or any police reports related to the incident. The end goal is to resolve the complaint or prepare the complaint for further investigation by an investigator, if necessary.

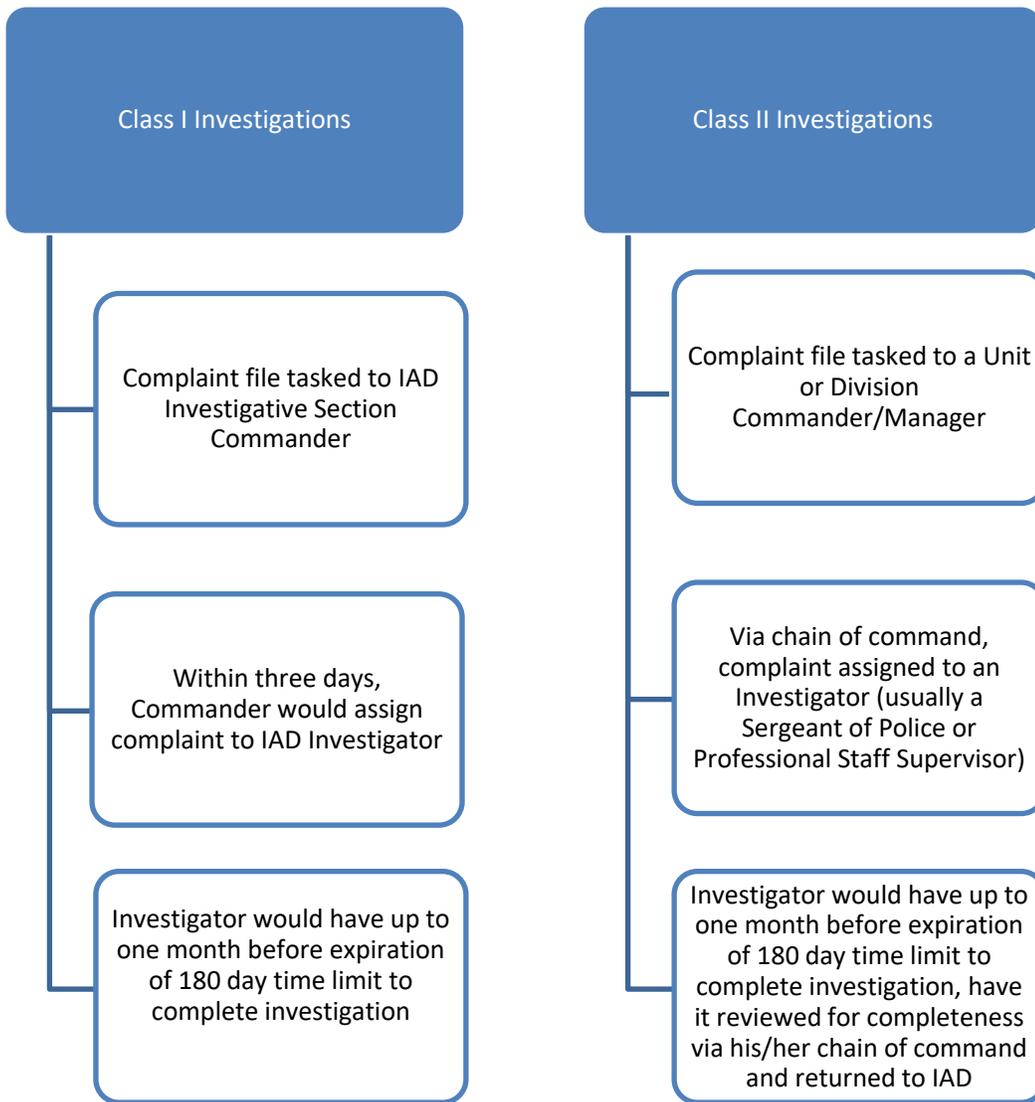


Upon completing the processing of the complaint file, the file would be tasked to the Intake Section Supervisor (a Sergeant of Police), who would have three days to review the file for completeness before it is tasked to the Intake and Administrative Section Commander.

Intake and Administrative Section Commander and Administrative Support Staff

The Intake and Administrative Section Commander is a Lieutenant of Police. The Lieutenant would also have three days to review the complaint file for completeness before it is tasked it to a Police Records Specialist (PRS). The PRS would have three days to make a copy of the control file created by the Intake Section and insert the copies in a “red file” along with other documents such as recusal forms, declarations, additional investigation notes, etc., and forward the “red file” to the Administrative Support Supervisor, who would also have three days to review the file for completeness before ensuring it is forwarded to either the Investigative Section Commander or a division-level Captain or Manager.

If the investigation is conducted within the IAD, the “red file” is forwarded to the Investigative Section Commander who assigns it to an investigator. If the investigation is conducted at the division-level, the “red file” is forwarded to a Captain or Manager. The Captain or Manager forwards the file, via the chain of command, to the assigned investigator.



Upon the conclusion of the investigation, the Investigative Section/Administration Section Commander would have 30 days to review the investigation for completeness prior to sending it to the Captain of IAD, who also reviews the investigation for completeness and approves cases with no sustained findings, or reviews and forwards to the Chief of Police for approval if there are sustained findings.

Bureau of Field Operations Tracking of Investigations

Departmental General Order M-3, *Complaints against Departmental Personnel or Procedures*, Section V.A.1, states, "Bureau Deputy Chiefs/Director shall be responsible for tracking the progress of internal investigations and ensuring compliance with internal due dates within his/her bureau and the overall due date assigned by the IAD." Because a Bureau of Field Operations 1 (BFO 1) Administration Sergeant is responsible for tracking division-level investigations for BFO 1 and BFO 2, the Auditor met with him to obtain information regarding the tracking process for DLI investigations. The Sergeant informed the Auditor that, for BFO 1, he is responsible for logging all DLI investigations when he receives them; distributing them to Captains or

Lieutenants; and logging them back in when they are returned to him upon completion. Subsequently, he returns the completed investigations to the IAD.

The auditor noted that the BFO 1 Administration Sergeant maintains an Excel spreadsheet for all assigned BFO 1 and BFO 2 DLI investigations, which includes the following data fields:

- Case Number
- PRIME #
- PRIME Notification
- Date BFO Received
- Delivered To
- Area
- Assigned To
- Recusal Form Rec
- To IAD

In addition, for BFO 1 only, the BFO 1 Administration Sergeant stated that the following data fields are also recorded:

- Complainant
- Subject officer(s)
- 180 date
- 3304 date

During the meeting, the BFO 1 Administration Sergeant stated that BFO 2, Support Operations Division (SOD), Radio Room and the Ceasefire Division's DLIs are picked up daily by the BFO 2 Administration Sergeant.

OPD's APPROVED INTERNAL INVESTIGATIONS and DISCIPLINE RECOMMENDATION PROCESS POLICIES

Departmental General Order M-3, *Complaints against Departmental Personnel or Procedures*, Section II.C, states, in part, "...[An] Approved Internal Investigation is an internal investigation that has been processed, completed (investigated with a recommended find), reviewed by the chain of command, and has been reviewed and signed by the Chief of Police or the IAD Commander [a Captain] when designated by the Chief of Police. Approved internal investigations shall be considered 'Closed.'" (pg. 3)

Sections V.B1.b and B2.b state "In cases with a sustained finding, the discipline recommendation process shall be completed within 30 calendar days of the sustained finding." (pgs. 21-22)

STATE OF CALIFORNIA GOVERNMENT CODE TITLE 1, DIVISION 4, CHAPTER 9.7 PUBLIC SAFETY OFFICERS, SECTION 3304

Section 3304 (d)(1) states, in part, "...no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event

the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline that year...”

Section (2)(H)(f) states “If after investigation and any pre-disciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.”

Scope and Population

The focus of the audit is to identify possible patterns and/or trends in the OPD Internal Affairs Division’s processing of complaints, including extensions and division-level tracking of investigations, contributing to Class I and Class II employee misconduct investigations exceeding the 180-day timeline; determine whether the discipline conference process was completed within 30 calendar days of the sustained findings’ respective approval date; determine whether employees were notified of discipline to be imposed within 30 calendar days of the respective discipline conferences; and determine whether all investigations were completed and discipline imposed within 365 days as mandated by the State of California Government Code Title 1, Division 4, Chapter 9.7 *Public Safety Officers*, Section 3304 (3304 date).

The audit period included cases resulting in a formal finding (unfounded, exonerated, sustained, or not sustained) and approved by the IAD Captain or Chief of Police between January 1, 2018 and June 30, 2019. Informally resolved investigations, service complaints, and administratively closed cases were not included in the assessment.

The chronological activity logs (CAL) of a sample of 52 cases were reviewed to identify trends or patterns contributing to Class I and Class II investigations exceeding the 180-day timeline.

All sustained cases during the time period of January 1, 2018 and June 30, 2019 were reviewed to determine if the discipline process was completed within 30-days as required by policy and the 3304 date was met. See Appendix A for detailed scope, population and methodology.

FINDINGS

FINDING #1

An unstable environment due to implementation of new technology, inevitable personnel changes in management, and not having effective controls to minimize the effects of such changes contributed to investigations exceeding OPD’s 180-day timeline.

During the entrance conference with the IAD Intake and Administrative Section Commander, the Administrative Support Supervisor, and the Investigative Section Commander, they provided three reasons for falling out of compliance with the 180-day timeline:

- (1) The implementation of OPD’s PRIME system in May 2017 caused IAD to shut down for more than a month, prohibiting them from creating case files and sending them out. By September, the Intake Staff had caseloads of 50 to 60 complaints, creating a backlog of investigations.

- (2) Over the past three years, there has been a lot of turnover in IAD leadership positions. In May 2018, the IAD’s Project Manager, who managed the Division Level Investigations (DLIs) Unit, left the organization. In addition, around the same time, the DLI Coordinator, a Sergeant, transferred to the Training Division. The current Intake and Administrative Section Commander, who transferred into the position in October 2018, is the sixth commander in this position in four years. Because of the steep learning curve for those new to working in the IAD, personnel turnover impacts the efficiency of processing and investigating complaints.
- (3) During the exit conference, the Intake and Administrative Section Commander advised the OIG that, traditionally, there were three command-level positions responsible for investigations: an Intake and Administrative Section Commander, an Investigative Section Commander, and a Project Manager, who managed the Division Level Investigations Unit. Since the Project Manager’s departure in the second quarter of 2018, there have been only two command-level positions filled, an Intake and Administrative Section Commander and an Investigative Section Commander, causing the Intake and Administrative Section Commander to assume the duties of the Project Manager in addition to his own.

Based on IAD’s assessment of what created a backlog of cases, the auditor reviewed the Intake Dates by month and year of the 345 investigations that exceeded the 180-day timeline to determine what effect new technology implementation and personnel changes may have had on the IAD’s processing of investigations. The auditor noted that the unstable environment and the implementation of new technology, PRIME, created a rash of cases exceeding the timeline. The table below shows the change in the number of cases not meeting the timeline beginning with IAD intake dates of June 2017, shortly after the implementation of PRIME, and continuing through August 2018.

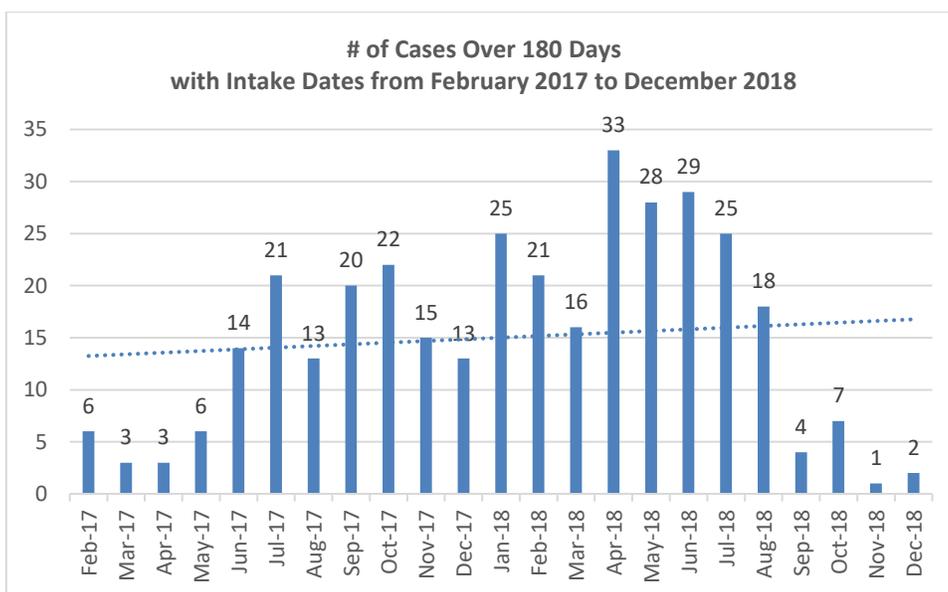
Month and Year the IAD Intake Section Received the 345 Investigations that Exceeded the 180 Day Timeline and the Noticeable Change in the Increased Number of Cases Not Meeting the Timeline Beginning with Cases Arriving in the Intake Section in June 2017

Intake MO/YR	# of Cases Over 180 Days	Average # of Days Over 180	Low	High	Range	No.
Feb-17	6	-160	-130	-179	-49	1
Mar-17	3	-289	-162	-533	-371	2
Apr-17	3	-124	-107	-154	-47	3
May-17	6	-133	-55	-177	-122	4
Jun-17	14	-119	-18	-293	-275	5
Jul-17	21	-141	-23	-346	-323	6
Aug-17	13	-104	-1	-230	-229	7
Sep-17	20	-95	-2	-219	-217	8
Oct-17	22	-126	-1	-184	-183	9
Nov-17	15	-156	-12	-181	-169	10

Dec-17	13	-120	-66	-157	-91	11
Jan-18	25	-110	-35	-180	-145	12
Feb-18	21	-118	-2	-225	-223	13
Mar-18	16	-131	-46	-187	-141	14
Apr-18	33	-160	-37	-217	-180	15
May-18	28	-157	-11	-181	-170	16
Jun-18	29	-154	-27	-181	-154	17
Jul-18	25	-143	-47	-170	-123	18
Aug-18	18	-99	-29	-143	-114	19
Sep-18	4	-66	-20	-114	-94	20
Oct-18	7	-52	-23	-78	-55	21
Nov-18	1	-133	N/A	N/A	N/A	22
Dec-18	2	-40	-19	-60	-41	23

What is important to note about the table is that it is NOT a reflection of the actual status of cases received by the IAD February 2017 through December 2018. The table merely shows cases that were “approved” by the IAD Captain/Chief of Police from January 1, 2018 through June 30, 2019. Therefore, some cases may still be outstanding that were received during the time period in the table.

However, the table does show that for cases received by IAD from February 2017 to December 2018 and approved by the IAD Captain/Chief of Police January 1, 2018 through June 30, 2019, the average number of days investigations exceeded the 180-day timeline is 127. In addition, the minimum number of cases over the 180-day timeline is one and the maximum is 33. Lastly, when OIG conducted its IAD timelines audit in 2017, there were only 33 formal investigations that exceeded the 180-day timeline, averaging three cases per month exceeding the timeline. The table shows the number of investigations that exceeded the 180-day time limit was four to 11 times the 2017 average for cases with Intake Dates from June 2017 to August 2018.



Upon reviewing the Internal Affairs Division Policy 10-01, Internal Affairs Policy and Procedures Manual, dated January 19, 2010, the auditor noted that the policy does not address procedures related to technology issues causing a slowdown in the processing of complaints. Not having procedures in place to minimize the effects technology issues can have on an operation is a contributing factor to some investigations exceeding the 180-day timeline and lasting approximately 15 months.

On the other hand, the policy does address IAD staffing capacity. It states, in part, "A Captain of Police designated by the Chief of Police shall...Evaluate and identify when complaints and/or work levels have exceeded IAD staffing capacity and notify the Chief of Police to discuss a recommendation for a solution to the problem such as evaluating procedures or systems, redistribution of workload, or the need for additional resources before recommending staffing increases (pg. 1)." The wording in the policy suggests that, if at any time personnel turnover issues cause work levels to exceed IAD's staffing capacity, the Captain is to notify the Chief of Police to discuss a recommendation for a solution to the program.

Department Response

Beginning in Spring 2019, to eliminate the backlog of overdue investigations, the OPD's IAD diverted staff resources to help review cases. This was followed by the commissioning of thirteen sergeants and one lieutenant, from both inside and outside IAD, to work overtime to conduct reviews. These reviewers were in addition to the regularly assigned DLI Coordinators and were trained by the Intake and Administrative Section Commander on reviewing investigations. Most had prior IAD experience. As of August 12, 2019, the IAD reported they no longer have a backlog.

On September 16, 2019, the IAD Captain emailed the OIG a copy of an Excel spreadsheet entitled *Cases in the Field past the 180 Date as of 27Aug19*. The spreadsheet is sent weekly to division-level commanders and managers and used to increase communication between the IAD staff and division level staff. In addition, the spreadsheet is used to ensure all division-level commanders and managers are aware of cases under their respective jurisdictions that have exceeded 180 days and have not been submitted to the IAD. Subsequently, on September 17, 2019, the IAD Captain emailed the OIG an additional Excel spreadsheet entitled *Cases in the Field past the 180 Date as of 16Sept19*.

FINDING #2

In 77% of the sampled cases, the Intake Section's processing of complaints exceeded 48 days, rendering the process to range from 49 to 123 days.

Since OPD does not have a policy that dictates how long each step of the complaint investigation should take, the auditor used the "perfect world" baseline of 48 days when calculating the number of days documented on the CAL the Intake Section took to complete its processing of a complaint. The Auditor subtracted the date the Intake Section received the complaint from the date the Intake and Administrative Section Commander agreed with the Intake Section Supervisor, a Sergeant, that the complaint should be further investigated.

Of the 52 cases reviewed, there were 12 (23%) in which the Intake Section, upon receipt of a complaint, completed its processing within 48 days. In the remaining 40 cases, the processing time ranged from 57 to 123 days. The table below provides a breakdown of the Intake Section's processing times.

Intake Section’s Processing Times

# of Days	# of Complaints Processed	Percentage
0 to 48	12	23%
49 to 60	11	21%
61 to 90	23	44%
91 to 120	5	10%
123	1	2%
Total	52	100%

As the data reflects, 77% of the sampled cases took more than 48 days for the Intake Section to process the complaints. The absence of an established, documented benchmark for each unit, section, division and bureau’s handling of an investigation is a contributing factor to investigations involving allegations of Class I and Class II employee misconduct offenses and approved by the IAD Captain/Chief of Police from January 1, 2018 to June 30, 2019 to exceed the OPD’s 180-day timeline. An established, documented benchmark will allow the OPD to measure its Intake Section’s successes and investigate any failures in moving investigations along the 180-day continuum.

Additional Observation(s)

Upon the completion of the Intake Section’s processing of a complaint, the OPD took 15 days or less before assigning an investigator to the case in only 58% of the sampled cases.

Once the Intake Section processes a complaint, the following steps are taken:

- The Intake and Administrative Section Commander reviews the file;
- A Police Records Specialist (PRS) makes a copy of the control file created by the Intake Section, and inserts the copies in a “red file” along with other documents such as recusal forms, declarations, additional investigation notes, etc.
- The PRS forwards the “red file” to the Administrative Support Supervisor for review.
- If the investigation is conducted within the IAD, the “red file” is forwarded to the Investigative Section Commander who assigns it to an investigator. If the investigation is conducted at the division-level, the “red file” is forwarded to a Captain in the Bureau of Field Operations. The Captain forwards the file, via his/her chain of command, to the assigned investigator.

Since OPD does not have a policy that dictates how long the above process should take, the Auditor chose a baseline of 15 days to be appropriate when calculating the number of days for OPD to assign an investigator once the complaint left the Intake Section. Upon review of the 52 cases’ CAL entries, there were 30 instances in which an investigator was assigned within 15 days. In the remaining 22 instances, once the complaint was processed by the Intake Section, the number of days the OPD took to assign an investigator ranged from 16 to 138 days. The table below provides a breakdown of the number of days it took each of the sampled 52 cases to be assigned an investigator after the complaint was processed in the Intake Section.

Number of Days: Intake Section to an Assigned Investigator

# of Days	# of Days to Assign Investigator once Complaint Processed in Intake	Percentage
0 to 15	30	58%
16 to 30	11	21%
31 to 60	8	15%
69	1	2%
94	1	2%
138	1	2%
Total	52	100%

As the data reflects, 42% of the sampled cases took more than 15 days for respective investigators to be assigned to investigate the complaints. Again, the absence of an established, documented benchmark for each unit, section, division and bureau’s handling of an investigation is a contributing factor to investigations exceeding the OPD’s 180-day timeline.

The OPD’s BFO centralized tracking system is inefficient and prohibits the OPD from knowing the whereabouts of all its division-level investigations.

Because most investigations are handled at the division level, the Auditor assessed the OPD’s Bureau of Field Operations centralized tracking system’s ability to provide the status (when received in the BFO and when returned to the IAD) of each investigation. To conduct the assessment, the Auditor requested and received from the BFO 1 Administrative Sergeant the DLI Tracking Sheets for approximately 2.25 years, 2017, 2018 and January 1, 2019 through March 31, 2019.

Upon receipt of the data, the Auditor noted that the “Date BFO Received” data field represents the date BFO received the division-level investigation from the IAD and the “To IAD” data field represents the date the division-level investigation was returned to the IAD. The assessment of the centralized tracking system indicated that the Department’s system of tracking its division-level investigations is not efficient because the date an investigation is received in the BFO and the date an investigation is returned to the IAD is not always entered in the respective data fields:

- In 2017, 383 investigations (DLI’s) were assigned to the BFO. There were 224 (58%) investigations in which dates were entered in both data fields, “Date BFO Received” and “To IAD,” which allows the OPD to determine when a complaint arrived in the BFO and when the investigation was completed and returned to the IAD. However, for the remaining 159 (41%) investigations, 17 of them did not have a date in the “Date BFO Received” data field, and 142 investigations had no date in the “To IAD” data field.
- In 2018, 382 investigations (DLI’s) were assigned to the BFO. There were 174 (46%) investigations in which dates were entered in both data fields. However, for the remaining 208 (54%) investigations, two of them did not indicate a date in the “Date BFO Received” data field and 206 investigations had no date in the “To IAD” data field.

- From January 1, 2019 through March 31, 2019, 74 investigations (DLI's) were assigned to the BFO. There were 54 (73%) investigations in which dates were entered in both data fields. However, for the remaining 20 (27%), there was no date in the "To IAD" data field.

On October 16, 2019, the BFO Administrative Sergeant responded to a voicemail and email sent from the Auditor that asked the questions "Why are there blank fields in the "Date BFO received" and "To IAD" columns on the spreadsheets provided for 2017, 2018, and 2019? What are the circumstances in which a data field would be left blank?" The BFO Administrative sergeant stated that he has been in the position since February 2019 and cannot speak to the status of the 2017 and 2018 spreadsheets. However, it has been his experience that there are investigations hand-delivered directly to IAD without him being notified. Not notifying the employee responsible for tracking division-level investigations, the BFO 1 Administration Sergeant, renders the centralized tracking system inefficient and prohibits the OPD from knowing the whereabouts of all the division-level investigations.

FINDING #3

In 31 (60%) of the sampled cases, the assigned investigator completed the investigation within 93 days. However, for 30 of the cases, it took an additional 53 to 257 days to complete the IAD's Review Process and acquire the IAD Captain's/Chief of Police's approval.

Since OPD does not have a policy that dictates how long an investigation should take, the auditor used the "perfect world" baseline of 93 days when calculating the number of days documented on the CAL an assigned investigator took to complete his/her investigation. To calculate the number of days, the auditor used the date documented on the CAL to determine when the investigator received the case, the date he/she documented the completion of his/her investigation, and the date the case was returned to any IAD staff member (i.e., an IAD Administrative/Investigative Commander or Administrative Analyst).

In addition, during the entrance conference, the Investigative Section Commander advised the OIG that "in a perfect world," an Investigator would have up to one month before the expiration of the 180-day time limit to complete the investigation. Within the last 30 days, an IAD Lieutenant is expected to review the investigation for completeness and/or revisions and have the IAD Captain review and approve cases with no sustained findings. For cases with sustained findings, there is an additional review. The IAD Captain is expected to review the investigation for completeness and/or revisions prior to forwarding the case to the Chief of Police for review and approval. Therefore, the Auditor subtracted the date the case was returned to the IAD from the date the IAD Captain/Chief of Police approved the investigation.

There were 31 (60%) cases in which the assigned investigator completed the investigation within the "perfect world" 93 days. However, once the respective investigations were forwarded to the IAD to begin its review and acquire the IAD Captain/Chief of Police approval, there was only one case that completed the review and approval process within the "perfect world" 30 days. For the remaining 30 cases, the process ranged from 53 to 257 days. The table below includes the length of the investigation for each sampled case and the number of days for IAD to complete its review process and acquire the IAD Captain's/Chief of Police's review and approval.

Number of Days for Assigned Investigator to Complete the Investigation Versus Number of Days for the IAD Review Process and IAD Commander/Chief of Police Approval

Case No.	Number of Days to Complete the Investigation	Number of Days for the IAD Review Process and IAD Captain's/Chief of Police's Review and Approval
1	86	175
2	86	22
3	83	212
4	82	197
5	81	53
6	77	124
7	73	189
8	72	149
9	70	97
10	65	162
11	63	152
12	59	209
13	55	212
14	54	163
15	52	235
16	48	218
17	46	129
18	45	257
19	42	221
20	41	203
21	41	184
22	37	63
23	36	229
24	36	106
25	34	191
26	29	208
27	29	155
28	28	168
29	27	253
30	22	112
31	13	150

As the data reflects, for 60% of the sampled cases, the OPD took an additional 53 to 257 days to complete its IAD's review process and acquire the IAD Captain's/Chief of Police's approval. Again, the absence of an established, documented benchmark for each unit, section, division and bureau's handling of an investigation is a contributing factor to investigations exceeding the 180-day timeline.

Additional Observation(s)

The Chronological Activity Logs are poorly documented, in that the reason(s) for any delay in the IAD's review process and/or acquiring the IAD Captain's/Chief of Police's review and approval of an investigation are not explicitly stated.

The Auditor sought reasons on the CAL that explained, after the assigned investigator completed the investigation and tasked it to the IAD, the need for the IAD to take an additional 53 to 257 days to complete its review process and acquire the IAD Captain's/Chief of Police's review and approval of an investigation. The reasons for delays were not explicitly noted on the CALs, and the Auditor noted that there were long periods of time in which there were no documented entries from IAD staff once the investigator tasked the case back to IAD. For example, there were gaps in documentation ranging from 30 days to 6 months. The Auditor noted some instances in which it was documented on the CAL that, during the Command Review, the investigation was returned to an investigator for corrections. However, the same issue arose, gaps in documented entries advising his/her chain of command and/or the IAD of the reasons for any delays in the investigation. A lack of documented entries on the CAL for long periods of time, two weeks or more, interferes with the OPD's ability to determine the actual reason(s) these cases were delayed before the IAD's Captain/Chief of Police was able to review and approve them.

Department Response

On September 16, 2019, the IAD Captain emailed the OIG a copy of the notice he sent to all commanders and managers, via email, dated August 30, 2019, regarding the 180-day timelines. In the notice, the IAD Captain offered some guidance in the way DLI cases should be handled to ensure that OPD meets the required timelines. Most importantly, to heighten IAD's ability to, within 30 days, conduct its Command Review of an investigation, then forward it to the IAD Captain for his/her review and approval or, if there are sustained charges, who, in turn, forwards it to the Chief of Police for review and approval, the IAD Captain provided a document designed to be a step by step guide for conducting a review of division-level investigations in a manner consistent with the IAD's process. In addition to informing the reader to look for issues with grammar, spelling, and formatting, the document provides guidance related to various parts of an investigation. Below are some of the topics included in the notice:

- The Background Section—who, what, when, and where;
- Statements Section—statements from complainant(s) and involved officer(s);
- Disputed facts;
- Evidence;
- Other related information;
- Discussion and conclusion;
- Credibility assessments; and
- Recommended finding.

FINDING #4

In 21 (40%) of the sampled cases, the assigned investigator exceeded 93 days to complete the investigation, and 16 of those cases took an additional 33 to 217 days to complete the IAD's Review Process and acquire the IAD Captain's/Chief of Police's approval.

There were 21 (40%) cases in which the assigned investigator exceeded 93 days to complete an investigation (96 to 249 days). Once the respective investigations were forwarded to the IAD to begin its review and acquire the IAD Captain's/Chief of Police's approval, there were only five cases that completed the review and approval process within the "perfect world" 30 days. For the remaining 16 cases, the process ranged from 33

to 217 days. The table below includes the length of the investigation for each sampled case and the number of days for the IAD to complete its review process and acquire the IAD Captain's/Chief of Police's review and approval.

Number of Days for Assigned Investigator to Complete the Investigation Versus Number of Days for the IAD Review Process and IAD Captain/Chief of Police Approval

Case No.	Number of Days to Complete the Investigation	Number of Days for the IAD Review Process and IAD Captain's/Chief of Police's Review and Approval
1	249	24
2	249	8
3	243	16
4	182	41
5	177	145
6	156	58
7	137	2
8	133	131
9	133	38
10	126	88
11	124	79
12	118	23
13	114	61
14	112	65
15	107	173
16	105	129
17	104	217
18	102	173
19	102	154
20	101	33
21	96	193

As the data reflects, for 40% of the sampled cases, the OPD took 96 to 249 days to complete an investigation and an additional 2 to 217 days to complete its IAD review process and acquire the IAD Captain's/Chief of Police's review and approval. Again, the absence of an established, documented benchmark for each unit, section, division and bureau's handling of an investigation is a contributing factor to investigations exceeding the 180-day timeline.

FINDING #5

Dates are not routinely entered in PRIME's "Date the Investigator is Assigned" and "Investigation Due Date" data fields, hindering OPD's ability to manage case timelines.

There were 345 investigations that exceeded the 180-day timeline, and the auditor, as a test to identify trends and/or patterns which may have contributed to investigations exceeding the OPD's 180-day timeline, sought to use the dates in the "Date the Investigator is Assigned" and the "Investigation Due Date" data fields to assess how long it takes to assign an investigator to a case after it leaves the Intake Section, and whether investigators are meeting the due dates. The auditor was unable to conduct the test because the "Date

Investigator Assigned” data field was blank in 232 (67%) of the 345 investigation profiles in PRIME and the “Investigation Due Date” was blank in nearly all (336 of the 345) investigation profiles in PRIME.

During the entrance conference with IAD staff, the auditor stated, “Upon receiving the data from IAD, we noticed that the *Date Investigator Assigned* and the *Investigation Due Date* data fields were not complete. Is there a reason dates are not entered in these data fields?” The Investigative Section Commander stated that those fields are not normally completed because the person who enters data in them is the only person who can modify them. Because OPD personnel are subject to change assignments, those fields are left blank. According to the OPD’s Lexipol Procedure 1010, *Personnel Complaints: Case Record*, dated March 31, 2017, “IAD Personnel shall complete this record in accordance with the provision in DGO M-3, *Complaints against Departmental Personnel or Procedures*. Case Records can be completed by any member of the Internal Affairs Division.” In addition, upon reviewing the documentation on a CAL for a complaint investigation, the auditor noted that one of IAD’s Police Record Specialists tasked a commander of the Division Level Investigator the following statement:

“Please advise the assigned investigator’s Lieutenant to enter the investigators name and the date assigned in the ‘Investigation Report’ section of the PRIME database. Once entered, the individual that entered the information will be the only person outside of the IAD able to update. If you need to change the person assigned and the Lieutenant is unavailable, task the Police Records Supervisor a Deliverable to change.”

Not ensuring the dates are entered in the “Date Investigator Assigned” and the “Investigation Due Date” data fields interferes with the IAD’s ability to adequately track investigation due dates missed by the IAD or division-level investigators. If used properly, these data fields are tools to assist the IAD in identifying trends and/or patterns which may contribute to investigations of employee misconduct exceeding the 180-day timeline.

Department Response

On September 16, 2019, the IAD Captain emailed the OIG a copy of the notice he sent to all commanders and managers, via email, dated August 30, 2019, advising division-level captains and managers to enter the following information when assigning a case via the chain of command to a lieutenant or supervisor:

- The investigation’s 180-day due date;
- Date investigation due to be returned to the Lieutenant;
- Date investigation due to be returned to the Captain/Manager; and
- Date the investigation due to be returned to the BFO Administration.

FINDING #6

Seven investigations’ extensions negatively impacted the 180-day timeline by increasing the investigations 3 to 106 days beyond 180 days, and one had no documented reason for the extension.

There were 24 investigations identified as having at least one extension approved, and seven of them negatively impacted the 180-day timeline as shown in the table below. An analysis of the data also shows that the extensions did not cause the investigations to exceed the 180-day timeline. However, they did increase the number of days the cases were investigated.

Seven Investigations that Impacted the 180-Day Timeline

No.	# of Days Intake Process (48)	% Over Perfect World of 48 Days	# of Days to Complete Invest. without Extension	# of Days Extended	# of Days to Complete Invest. with Extension	% of Time Added to Invest. with Extension	# of Days to Approval	% Over Perfect World of 30 Days	# of Days Over 180 Day Timeline
1	90	88%	137	106	243	77%	16	N/A	-172
2	58	21%	123	14	137	11%	2	N/A	-27
3	50	4%	99	3	102	3%	173	477%	-159
4	60	25%	223	57	280	26%	9	N/A	-181
5	45	N/A	55	53	108	96%	179	497%	-166
6	57	19%	123	7	130	6%	126	320%	-151
7	93	94%	30	84	114	280%	61	103%	-120

Although some extensions impacted the 180-day timeline significantly more than others, below are the reasons for the extensions:

Reasons for extensions

Case No.	Reasons for Extensions
1	Investigator had other DLI's and use of force reports to complete, in addition to needing to conduct interviews for the case.
2	Investigator was already assigned 4 DLIs when receiving this investigation. In addition, the investigator had two use of force reports to complete and one vehicle pursuit report to complete.
3	Investigator needed additional time to allow the Watch Commander to review the DLI prior to submitting it to the IAD.
4	Auditor unable to determine why extension was granted.
5	Investigator needed to conduct interviews with an officer who was attending Continued Professional Training followed by two weeks of scheduled vacation. In addition, the investigator requested 3 additional days because of missing work due to illness. Lastly, the investigator needed additional days to conduct two interviews as directed by the reviewing Lieutenant.
6	Investigator requested additional time for chain-of command review.
7	Extension required to review body-worn camera footage of approximately 17 officers. In addition, PRIME was not working.

For the remaining 17 investigations in which extensions were granted, 15 of them did not impact the 180-day timeline and the auditor was unable to determine whether two of them impacted the timeline. Below is a synopsis of how the Auditor rated the 17 investigations:

- Eight of the investigations had extensions ranging from 8 to 31 days; however, the investigations were still completed within the 93 days “perfect world” investigation.
- For seven investigations, the Auditor was unable to determine the number of days for each extension(s) approved because the “Original Due Date,” “Requested Due Date” and/or the “Approved Due Date,” data fields were not completed. However, the investigations were completed within the “perfect world” 93 days.
- The Auditor could not determine the impact of extensions for two investigations. One investigation was completed in 108 days and the other in 126 days. However, the Auditor was unable to determine the impact of the extensions because the number of days for each extension approved is unknown since the “Original Due Date,” “Requested Due Date” and/or the “Approved Due Date,” data fields were not completed.

Department Response

On September 16, 2019, the IAD Captain emailed the OIG a copy of the notice he sent to all commanders and managers, via email, dated August 30, 2019, advising them the IAD will no longer be the point of contact for [division-level investigators] seeking an extension prior to the [date the case is due to be returned to the IAD to begin its Command Review]...He further stated that, “[in PRIME], extension requests should be made utilizing the “Request Extension” option...Extension requests shall be made via the chain of command where the investigation is assigned...In the event of extenuating circumstances, where an extension is warranted beyond the [date the case is due to be returned to the IAD], the responsible Captain/Manager shall complete an interoffice memorandum and forward it through his/her chain of command to the Bureau Deputy Chief or Director for approval. Subsequently, the Bureau Deputy Chief or Director will advise and consult with the IAD Commander regarding extension approvals beyond the date the case is due to be returned to the IAD to begin its Command Review.”

FINDING #7

The discipline conference process for 95% of the 112 investigations with sustained findings was completed within 30 calendar days of the sustained findings’ respective approval dates.

Upon subtracting the *Discipline Conference Date* data field from the *Approval Date* data field for 112 Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, the auditor determined the discipline conference process for 106 (95%) of them was completed within 30 calendar days of the sustained findings’ respective approval dates. There were six (5%) cases in which the discipline conference was completed more than 30 calendar days after the sustained findings’ respective approval dates. For those cases, the discipline conferences were completed within 35 to 137 days of the sustained findings’ approval dates.

FINDING #8

In all (100%) of the 112 investigations with sustained findings, employees were notified of their discipline within 30 days of the respective discipline conferences.

Upon subtracting the *Date of Discipline Notification* data field from the *Discipline Conference Date* data field for 112 employee misconduct investigations with sustained findings, the auditor determined that in all (100%) cases employees were notified of their discipline within 30 days of the respective discipline conferences.

FINDING #9

All investigations with sustained findings met the requirements of the State of California Government Code Title 1, Division 4, Chapter 9.7 Public Safety Officers, Section 3304.

Upon subtracting the *Date of Discipline Notification* data field from the *3304 Start Date* data field for 112 employee misconduct investigations with sustained findings, the auditor determined that 111 (99%) of them were completed and discipline imposed within 365 days as mandated by the State of California Government Code Title 1, Division 4, Chapter 9.7 Public Safety Officers, Section 3304. There was one (1%) investigation completed, and discipline imposed, within 417 days instead of 365 days. However, the case was deemed not applicable since the former officer retired prior to the completion of the investigation. There was also one case that, although it met the requirements of 3304 based on OIG's calculation, was tolled for a period of time and the subject officers have questioned the 3304 date.

Findings and Recommendations

OIG Findings	OIG Recommendations
<p><u>Finding #1</u> An unstable environment due to implementation of new technology, inevitable personnel changes in management, and not having effective controls to minimize the effects of such changes contributed to investigations involving allegations of Class I and Class II employee misconduct and approved by the Internal Affairs Division Captain/ Chief of Police from January 1, 2018 to June 30, 2019 to exceed the Oakland Police Department’s 180-day timeline over a 15- month period.</p>	<p><u>Recommendation #1</u> Revise Internal Affairs Division Policy 10-01, Internal Affairs Policy and Procedures Manual, dated January 19, 2010, to include procedures related to technology issues causing a slowdown in the processing of complaints. Not having procedures in place to minimize the effects technology issues can have on an operation is a contributing factor to some investigations exceeding the 180-day timeline and lasting approximately 15 months.</p>
<p><u>Finding #2</u> In 77% of the sampled cases, the Intake Section’s processing of complaints exceeded 48 days, rendering the process to range from 49 to 123 days.</p> <p>Upon the completion of the Intake Section’s processing of a complaint, the OPD took 15 days or less before assigning an investigator to the case in only 58% of the sampled cases.</p> <p>The absence of an established, documented benchmark for each unit, section, division and bureau’s handling of an investigation is a contributing factor to investigations involving allegations of Class I and Class II employee misconduct offenses and approved by the IAD Captain/ Chief of Police from January 1, 2018 to June 30, 2019 to exceed the OPD’s 180-day timeline. Goal setting is most important when striving to achieve excellence.</p> <p><u>Finding #3</u> In 60% of the sampled cases, the assigned investigator completed the investigation within 93 days. However, all but one case took an additional 53 to 257 days of review and/or additional investigation prior to the review and approval by the IAD Captain/Chief of Police.</p>	<p><u>Recommendation #2</u> The OPD should ensure its Executive Team routinely receives reports that include, at minimum, the compliance status of timelines and cases approaching and exceeding the 180-day timeline.</p> <p><u>Recommendation #3</u> The OPD should invest in investigation case management software to ensure more effective and or efficient methods of tracking investigations’ progress and status, allowing for the early detection of issues or concerns that could cause delays and increase the potential to exceed the 180-day timeline. Investigation case management software will allow the Department to collect incident and investigation summaries, interviews, evidence, relevant documents, links and more, all in one centralized location. In addition, it efficiently manages investigator workloads with a clear view into which cases they are assigned to, how many cases are open, and how long they have been active. With this data, the Department will have the insight they need to mitigate future investigations and protect the organization from risks.</p>

OIG Findings

OIG Recommendations

The Chronological Activity Logs are poorly documented, in that the reason(s) for taking more than 30 days for the IAD Captain’s/Chief of Police’s review and approval are not explicitly stated.

Finding #4

In 40% of the sampled cases, the assigned investigator exceeded 93 days to complete the investigation, and all but five cases took an additional 33 to 217 days of review and/or additional investigation prior to being finalized for review and approval by the IAD Captain/Chief of Police.

Finding #5

Dates are not routinely entered in PRIME’s “Date the Investigator is Assigned” and the “Investigation Due Date” data fields, precluding the OPD the capability of determining the length of time it takes to assign an investigator to a case and how often investigators are adhering to the due dates.

Recommendation #4

The OPD should adopt the *DLI Review Tips and Guidance* information the IAD Captain provided in the notice he sent to all commanders and managers, via email, dated August 30, 2019—and which is infused throughout this audit as a Department Response—by codifying the information in a Departmental Training Bulletin or an Organization Unit Policy and Procedures such as Bureau of Field Operations Policy and Procedures, the Internal Affairs Division Policy and Procedures, the Communications Division Policy and Procedures, etc.

Recommendation #5

To ensure efficiency throughout the entire investigation process, the OPD should establish documented benchmarks for each unit, section, division and bureau’s handling of an investigation, striving to complete most investigations much sooner than 180 days.

Recommendation #6

The OPD should ensure the date an investigator is assigned and the date the investigation is due is entered in the PRIME data fields to monitor whether investigators are adhering to due dates.

Recommendation #7

The OPD should conduct value stream maps to analyze its current complaint investigation process and design a future investigation process with reduced lean wastes.

Recommendation #8

The OPD should conduct caseload assessments for division-level investigations to ensure investigators are capable of completing investigations in a timely manner.

OIG Findings	OIG Recommendations
<p><u>Finding #2 Additional Observation</u> The OPD's BFO centralized tracking system is inefficient and prohibits the OPD from knowing the whereabouts of all its division-level investigations.</p>	<p><u>Recommendation #9</u> The OPD should ensure the BFO Administrative Sergeant is notified by email of all DLI's that are returned directly to the Internal Affairs Department.</p>

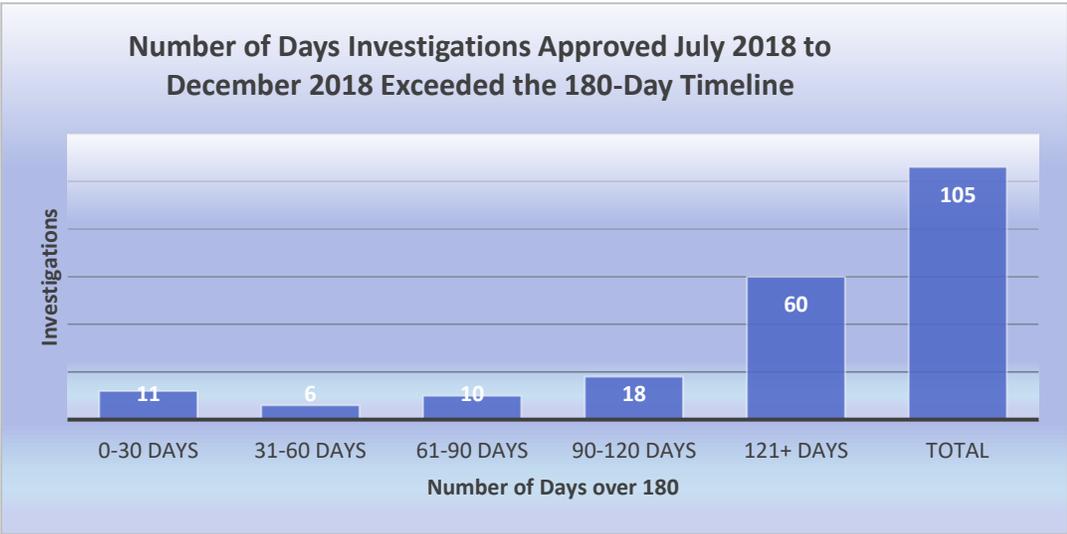
Conclusion

The Office of Inspector General recognizes that the Oakland Police Department's Internal Affairs Division has taken a proactive approach to correct trends and/or patterns which may have contributed to investigations exceeding the 180-day timeline. The *Division-Level Investigation Review Tips and Guidance* information the IAD Captain provided to all commanders and managers will assist the Department to more efficiently review and track its investigations. In addition, the IAD has indicated they eliminated the backlog of overdue investigations by commissioning thirteen sergeants and one lieutenant, from both inside and outside IAD, to work overtime to conduct reviews.

Just prior to the publication date of this audit, the Department implemented a new technology solution to replace PRIME, called Vision. The OIG will reassess the 180-day timeline requirement in the next six to eight months.

APPENDIX A

Number of Days Each Case Exceeded the Timeline



APPENDIX B

Scope, Population, Methodology and References

Scope and Population

The focus of the audit is to identify possible patterns and/or trends in the OPD Internal Affairs Division's processing of complaints, including extensions and division-level tracking of investigations, contributing to Class I and Class II employee misconduct investigations exceeding the 180-day timeline; determine whether the discipline conference process was completed within 30 calendar days of the sustained findings' respective approval date; determine whether employees were notified of discipline to be imposed within 30 calendar days of the respective discipline conferences; and determine whether all investigations were completed and discipline imposed within 365 days as mandated by the State of California Government Code Title 1, Division 4, Chapter 9.7 *Public Safety Officers*, Section 3304 (3304 date).

The audit period included cases resulting in a formal finding (unfounded, exonerated, sustained, or not sustained) and approved by the IAD Captain/Chief of Police between January 1, 2018 and June 30, 2019. Informally resolved investigations, service complaints, and administratively closed cases were not included in the assessment.

The chronological logs of a sample of 52 cases were reviewed to identify trends or patterns contributing to Class I and Class II investigations exceeding the 180-day timeline. All sustained cases during the time period of January 1, 2018 and June 30, 2019 were reviewed to determine if the discipline process was completed within 30-days as required by policy, and the 3304 date was met. See Appendix A for detailed scope, population and methodology.

Population for Objective 1

The auditor requested and received from the Internal Affairs Division a report of all cases approved during the period of January 1, 2018 through June 30, 2019, with the following data fields:

- Case Number
- Incident Date
- Violation
- Violation Class
- Complaint Date
- Intake Date
- Intake Completed Date
- Date Investigator Assigned
- Approval Date
- 180 Days

The report, an Excel spreadsheet, captured 4,710 rows of data. Based on the "Violation" column, the auditor deleted 2,163 lines of data from the population for the following reasons:

Findings and reasons deleted from audit population

IAD Finding Description	Number of lines DELETED	REASON
“Administratively Closed”	1847	Investigations that could not be investigated due to lack of information and/or employee no longer is employed at the Department
Manual of Rules Codes 000.01.0b and 000.02.0b	30	Service Complaints (i.e. police response time, complaint about policy or department procedure). No allegation of employee misconduct.
Manual of Rules Codes 342.00-1c, 342.00-2o and 342.00-r	129	Related to vehicle collisions
Informally Resolved	157	From January 1, 2018 to June 30, 2019, there were 171 informally resolved complaints, all Class II’s, and 154 (90%) of them were approved within 180 days. Therefore, the OIG focused this audit solely on Class I and Class II employee misconduct formal investigations that did not meet the 180-day timeline.
Total	2163	

There were multiple lines of data associated with the same case number for complaints in which multiple allegations were made or multiple employees were listed. Since the approval date for all allegations in a case is the same, the auditor deleted duplicate rows associated with a single case number, leaving the most serious alleged violation of the MOR Code to represent the entire case, regardless of the finding, after which 1400 investigations remained. The auditor sorted the data by “Violation Class” and noted there were 584 Class I’s and 816 Class II’s.

The auditor focused only on Class I and Class II investigations that resulted in formal findings that exceeded the 180-day timeline. Upon sorting the audit population into six-month increments, Table 2 shows the number of investigations that exceeded the 180-day timeline.

Compliance Rates for the period of January 1, 2018 through June30, 2019

Approval Date	Total Investigations Approved	Investigations not Approved in 180 days	% of investigations not Approved in 180 days	% of investigations Approved in 180 days
Jan’18– Jun’18	221	74	33%	67%
Jul’18 – Dec’18	183	105	58%	42%
Jan’19 – Jun’19	239	165	69%	31%
Totals	643	344	53%	47%

Based on the population, the auditor stratified the sample, and using a randomizer software program (www.randomizer.com) selected 52 cases required to obtain a 95% confidence level +/- 5% error rate. See Table 3 below. There were 14 Class I's and 38 Class II's.

Stratified Audit Sample (Randomly selected)

Period	Class I & II Investigations that Exceeded the 180-Day Timeline	% of Not in Compliance cases for the Audit period	Sample Population Total
January 2018 – June 2018	74	21%	11
July 2018 – December 2018	105	31%	16
January 2019 – June 2019	165	48%	25
Population Total	344	100%	52

Population for Objective 2

Upon review of the 52 investigations the auditor noted that there were 24 which had approved extensions. Therefore, the Auditor reviewed only those 24 investigations to determine whether an extension(s) impacted investigations exceeding the 180-day timeline.

Population for Objective 3, Objective 4 and Objective 5

Using PRIME, the OIG printed a report of all cases approved during the period of January 1, 2018 through June 30, 2019, with the following data fields:

- Case Number
- Employee Serial Number
- Employee Name
- Discipline Description
- Violation Class
- Violation
- Finding
- Discipline Letter Date
- Discipline Conference Date
- 3304 Start Date
- Approval Date
- Synopsis

In addition, the Auditor reviewed the data fields in PRIME to obtain the *Date of Discipline Notification*. The population consisted of all Class I and Class II employee misconduct investigations with sustained findings, approved by the Chief of Police from January 1, 2018 to June 30, 2019, and discipline was imposed. There was a total of 112 employee misconduct investigations with sustained findings and imposed discipline, 23 Class I's and 89 Class II's. An investigation was categorized as Class I if at least one alleged offense was a Class I violation. An investigation was categorized as Class II if all charges were Class II.

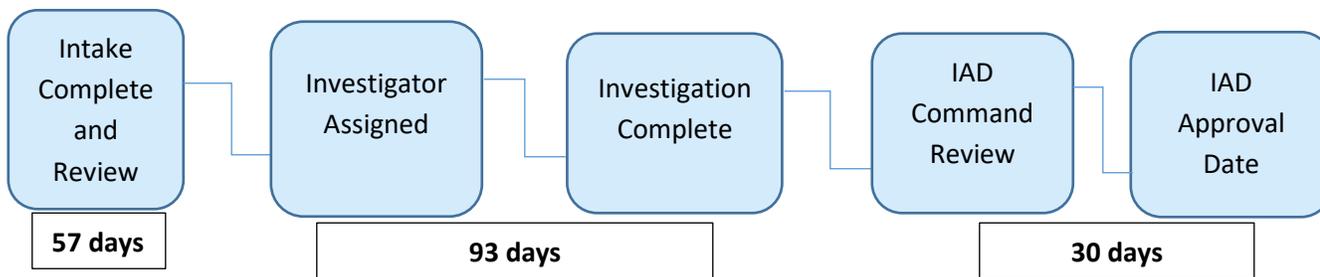
Methodology

Objective 1

To identify trends and/or patterns that may have been contributing factors to investigations exceeding the 180-day timeline, the auditor, using PRIME, reviewed the Chronological Activity Log⁵ (CAL) for each of the 52 investigations to determine how long each of the following units had the complaint/investigation in their possession prior to the IAD Captain/Chief of Police approving it. The auditor used the following information documented on the CAL:

- **Intake Section**
The auditor used the date the Intake Section received the complaint (data field) and the date it left the Intake Section documented on the CAL and determined by the documented date the Intake and Administrative Section Commander agreed with the Intake Supervisor's recommendation that the complaint be investigated.
- **Date Investigator was assigned the case and the date the case was completed by the investigator and returned to the IAD Administrative/Investigative Commander**
The auditor used the date documented on the CAL to determine when the investigator received the case, the date he/she documented the completion of his/her investigation, and the date the case was returned to an IAD Administrative/Investigative Commander.
- **IAD Command Review**
The auditor used the date(s) on the CAL in which it was documented an IAD Administrative/Investigative Commander began his/her review and completed his/her review.
- **IAD Captain/Chief of Police Approval**
The auditor used the "Date of Approval" data field and the date of approval documented on the CAL.

The auditor captured the above information on an Excel spreadsheet and calculated the number of days between each step, looking for lengthy processing times or gaps in documentation. Subsequently, the auditor compared the collected data to the IAD's "perfect world" timeline to identify any patterns or trends contributing to investigations exceeding the 180-day timeline.



⁵ The CAL is used to document the handling of an investigation, from the date the Intake Section receives the complaint to the date the IAD Captain/Chief of Police approves the subsequent investigation.

180 days to complete

- ✓ 48 days for Intake Section
- ✓ 3 days for Intake and Administrative Section Commander
- ✓ 3 days for Police Records Specialist
- ✓ 3 days for Administrative Support Supervisor
- ✓ 93 days for Investigative Section Commander or for division-level Captain or Manager to assign investigator and to conduct and complete investigation.
- ✓ 30 days for IAD Administrative/Investigative Commander to review investigation for completeness or revisions, and if necessary, forwards to the IAD Captain, who also reviews investigation for completeness and revisions and approves the investigation if there are no sustained findings. If there are sustained findings, the IAD Captain, upon completion of his/her review, forwards the investigation to the Chief of Police for review and approval.

Objective 2

To determine whether any extensions had an impact on investigations exceeding the 180-day timeline, first the Auditor, using PRIME, reviewed the “TASKS” and “Chronological Activity Log” sections of the 52 investigations to identify which had extensions requested and/or granted. Next for those investigations in which extensions were granted, the Auditor verified the completion of the following data fields as stated in OPD Procedure 1010 – Personnel Complaints Case Records.

- Start Date
- Original Due Date
- Requested Due Date
- Approval Due Date
- Date of Request
- Request Assigned To
- Reason for Extension
- Approver Comments

Next, the Auditor recorded and reviewed the above completed data fields for investigations granted extensions. Finally, the Auditor, to evaluate the additional days approved, categorized the extensions based on the number of days (i.e., 1-7 days, 8-14 days, 15-21 days etc.). If an investigator was granted more than one extension, the auditor recorded the total number of all days approved. *For example*, Officer X requests and is approved for an extension of five days. Two weeks later, Officer X requests a second extension of three days which is also approved. Subsequently, Officer X requests a final extension of two days which is also approved. For simplicity, the Auditor recorded 10 days (5+3+2=10) for the extension.

Objective 3

For all Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, to determine whether the discipline conference process was completed within 30 calendar days of the sustained findings’ respective approval dates, the Auditor subtracted the *Discipline Conference Date* data field from the *Approval Date* data field. All differences of 30

days and under were considered to have met the 30 calendar days requirement.

Objective 4

For all Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, to determine whether employees were notified of their imposed discipline within 30 calendar days of the sustained findings' respective approval dates, the Auditor subtracted the *Date of Discipline Notification* data field from the *Discipline Conference Date* data field. All differences of 30 days and under were considered to have met the 30 calendar days requirement.

Objective 5

For all Class I and Class II employee misconduct investigations with sustained findings and approved by the Chief of Police from January 1, 2018 to June 30, 2019, determine whether the investigations were completed and discipline imposed within 365 days as mandated by the State of California Government Code Title 1, Division 4, Chapter 9.7 Public Safety Officers, Section 3304, the Auditor subtracted the *Date of Discipline Notification* data field from the *3304 Start Date* data field. All differences of 365 and under were considered to have met Section 3304's requirement.

References

1. Department General Order M-03 "*Complaints Against Departmental Personnel or Procedures*" effective date December 22, 2017
2. Oakland Police Department-Internal Affairs Division Policy 10-01 (Formerly 05-01) "*Internal Affairs Policy and Procedure Manual*" effective date January 19, 2010

An Assessment of the Oakland Police Department's 2018 Vehicle Pursuits

By: Auditors Police Officer Alexander Vukasinovic, Sergeant Michael Valladon, Rebecca Johnson and Kristin Burgess-Medeiros

Objectives

- ✘ Identify factors that contributed to a 75 percent increase in the number of vehicle pursuits from 2017 to 2018.
- ✘ Validate 2018 vehicle pursuits were within policy.
- ✘ Evaluate the Oakland Police Department's supervision and review of vehicle pursuits.
- ✘ Explore ways to mitigate the risks associated with vehicle pursuits.

Key Observations

- ✘ OPD's Departmental Safety Committee found 101 of 104 (97%) pursuits in compliance. One additional pursuit was referred to the Internal Affairs Division for further investigation.
- ✘ There were 13 more officers (26%) who initiated pursuits in 2018 compared to 2017. Three officers respectively initiated 4, 10 and 11 more pursuits in 2018 compared to 2017, which accounted for 55% of the increase in total pursuits.
- ✘ Pursuits for vehicles involved in robberies – including robberies, home-invasion robberies and carjackings – made up the largest percentage of total pursuits and increased by 117% from 2017 to 2018 (35 additional pursuits).
- ✘ In late 2017, OPD increased its emphasis on intelligence-led policing, a strategy that involves timely access to intelligence and focuses officers' efforts on specific targets. Officers engaged in the highest number of pursuits indicated they are identifying more vehicles involved in crimes based on intelligence.
- ✘ OPD's process for reviewing pursuits identifies and appropriately handles most

Issues.

- ✘ There were two pursuits that resulted in severe injuries, but only one had a Fatal Accident Team callout.
- ✘ The Department's few tools to reduce the risk of pursuits (i.e., air support and surveillance) are limited in their availability.
- ✘ While the current pursuit board process includes a comprehensive review of pursuit compliance, tactics and safety, the OPD policies regarding pursuit boards do not sufficiently address the board responsibilities and procedures.

Key Recommendations

- ✘ The Department should update DGO J-4 and DGO G-4 to include additional detail on the pursuit board members and procedures, and to ensure they align with current pursuit board practices.
- ✘ The Department should assess what types of severe injuries resulting from a pursuit-related collision warrant a call-out and what type of call-out is required (Fatal Accident Team, Internal Affairs Division, etc.).
- ✘ The Department should explore increasing the hours of air support during time periods when pursuits are most likely to occur (2:00PM to 2:00AM).
- ✘ The Department should explore additional technologies to mitigate the risk of pursuits, such as StarChase.
- ✘ The Department should require a quarterly or biannual pursuit report that includes important pursuit data to arm supervisors and commanders with information they can use to mitigate and understand risk (e.g., time of day, speed, duration, technologies used, collisions, injuries and apprehensions).

EXECUTIVE SUMMARY

Between 2017 and 2018, there was a 75 percent increase in the Oakland Police Department's reported number of vehicle pursuits. Despite the risk associated with vehicle pursuits, an increase in pursuits doesn't indicate problematic behavior, unless officers aren't following policy or the investigation and review of pursuits is substandard. Also, while an increase in the number or severity of injuries and collisions resulting from pursuits is a measure of risk, the Office of Inspector General did not conduct this review as a result of any policy, injury or collision issues related to vehicle pursuits, but rather to identify factors that may have contributed to the increase in the OPD's vehicle pursuits between 2017 and 2018.

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspected or actual violator of the law in a motor vehicle while the driver is using evasive tactics, such as high speed driving, driving off a highway or turning suddenly and failing to yield to the officer's signal to stop. For the Oakland Police Department, the protection of human life is the primary consideration when deciding to engage in a vehicle pursuit. Vehicle pursuits are inherently [hazardous], but at times may be necessary to apprehend dangerous criminals who attempt to evade police. However, the decision to engage in a vehicle pursuit to immediately apprehend a fleeing suspect requires a careful weighing of risks to the safety of officers, motorists, bystanders and the general public versus the benefit to public safety by apprehending the suspect. Therefore, the OPD has a policy that allows vehicle pursuits to be initiated only when there is *reasonable suspicion* to believe the suspect committed a violent forcible crime and/or a crime involving the use of a firearm or *probable cause* that the suspect is in possession of a firearm.⁶

The Office of Inspector General (OIG) conducted preliminary research related to the OPD's reported number of vehicle pursuits over a five-year period, from 2013 to 2018. In 2013, under a more permissive vehicle pursuit policy, the OPD reported 144 vehicle pursuits. In an effort to mitigate the risks associated with pursuits, the OPD revised its pursuit policy in 2014, restricting the authorization for vehicle pursuits to violent crimes, resulting in noticeable decreases in the number of pursuits reported from 2014 to 2017. However, there was a significant uptick in the number of reported pursuits in 2018. Table 1 below shows the OPD's reported number of vehicle pursuits from 2013 to 2018.

Total Reported Number of Pursuits by Year (2013-2018)

Year	2013	2014	2015	2016	2017	2018*
Total Vehicle Pursuits	144	42	50	57	60	105

**While this review focused on the increase in pursuits between 2017 and 2018, it should be noted that the reported number of pursuits in 2019 has dropped 22% year to date (as of November 2019).*

Due to the significant increase in the reported number of vehicle pursuits within a year's time, and the inherent risks associated with pursuits, the OIG initiated a review to:

- Identify factors that contributed to a 75 percent increase in the number of vehicle pursuits from 2017 to 2018.
- Validate 2018 vehicle pursuits were within policy.
- Evaluate the Oakland Police Department's supervision and review of vehicle pursuits.

⁶ Departmental General Order J-4, Pursuit Driving, pg. 1

- Explore ways to mitigate the risks associated with vehicle pursuits.

In 2018, there were 5,865 violent crimes (homicide, aggravated assault, rape and robbery) reported in the City of Oakland, 44 percent of which were for robberies. The OPD initiated 105 pursuits in 2018, and all but one were for serious violent crimes (i.e., robbery, assault with a deadly weapon, firearms related offenses, and murder)⁷. Ninety-seven percent (101 of 104) of pursuits were found in compliance by the Departmental Safety Committee⁸. Of the 105 pursuits, 38 (36%) involved a collision (ranging from minor paint transfer to serious vehicle collision with major damage) and 15 (14%) involved an injury (ranging from complaint of pain to serious injury). There were three pursuits in which subjects in the pursued vehicle were seriously injured. All three of these pursuits were found in compliance. An OPD vehicle was involved in a collision related to the pursuit in only eight of the 105 pursuits. Fifty-two (50%) of the pursuits were self-terminated by an officer or terminated by a supervisor. A suspect was apprehended in 50% percent of the 105 pursuits in 2018.

There were 45 more pursuits in 2018 compared to 2017. There are likely a number of reasons for the increase in pursuits; however, identifying and/or isolating any particular factor is challenging due to the nature of pursuits, including the individualized decisions to pursue or not pursue and the responses of those individuals being pursued. A myriad of factors may be at play, such as an increase in vehicles that flee. In this review, the OIG was able to identify three factors that contributed to the 75 percent increase in the number of vehicle pursuits from 2017 to 2018. These factors were identified by reviewing 2018 pursuit data and interviewing officers, supervisors, and Area Commanders.

1. There were 13 more officers (26%) who initiated pursuits in 2018 compared to 2017. Three officers respectively initiated 4, 10 and 11 more pursuits in 2018 compared to 2017, which accounted for 55% of the increase in total pursuits.
2. Pursuits for vehicles involved in robberies – including robberies, home-invasion robberies and carjackings – made up the largest percentage of total pursuits and increased by 117% from 2017 to 2018 (35 additional pursuits).
3. In late 2017, OPD increased its emphasis on intelligence-led policing, a strategy that involves timely access to intelligence and focuses officers' efforts on specific targets. Officers engaged in the highest number of pursuits indicated they are identifying more vehicles involved in crimes based on intelligence.

In addition, the review included the following observations:

- OPD's process for reviewing pursuits identifies and appropriately handles most issues.
- Based on victim's descriptions of suspects, pursuits of vehicles involved in strong-arm robberies tended to have more suspects involved and the suspects tended to be juveniles, compared to pursuits of vehicles for robberies involving a firearm.
- While the current pursuit board process includes a comprehensive review of pursuit compliance, tactics and safety, the OPD policies regarding pursuit boards do not sufficiently address the board responsibilities and procedures.

⁷ One pursuit was for a stolen OPD vehicle (See Observation #6 for details).

⁸ One pursuit was referred to the Internal Affairs Division for further investigation.

- The Department’s few tools to reduce the risk of pursuits (i.e., air support and surveillance) are limited in their availability.
- The OPD can benefit from capturing detailed pursuit data and producing a biannual or annual report to aid in its supervisors’ oversight of pursuits.
- The OPD’s pursuit policy is equally or more restrictive than pursuit policies in other California police departments.

BACKGROUND

Police officers may initiate vehicle pursuits only “when there is reasonable suspicion to believe the suspect committed a violent forcible crime and/or a crime involving the use of a firearm, or probable cause that the suspect is in possession of a firearm.”⁹ The OPD, in its policy, Departmental General Order J-4, *Pursuit Driving* (DGO J-4), defines a violent forcible crime as the commission or attempted commission of:

1. Murder;
2. Manslaughter;
3. Mayhem
4. Kidnapping;
5. Robbery;
6. Carjacking;
7. Arson to an inhabited structure, inhabited property or that causes great bodily injury;
8. Explode or ignite a destructive device or any explosive causing great bodily injury or death;
9. Use or possession of a weapon of mass destruction;
10. Use of a firearm in the commission of a felony;
11. Assault with a deadly weapon, firearm;
12. Assault with a deadly weapon, other than a firearm,¹⁰ with serious bodily injury/great bodily injury;
13. Aggravated battery with serious bodily injury/great bodily injury; and
14. Any of the following sexual assaults committed against a person’s will by means of force, violence, duress, menace, fear of immediate and unlawful bodily injury on the person or another, or in concert:
 - a. Rape;
 - b. Sodomy;
 - c. Oral Copulation;
 - d. Lewd Act on a Child under the age of 14; or
 - e. Sexual penetration.¹¹

Every day police officers receive various types of intelligence (i.e., daily logs and bulletins, e-mails, and intelligence summaries) related to suspects who are alleged to have committed a violent crime or a vehicle

⁹ Ibid. pg. 1

¹⁰ The use of a motor vehicle to flee a scene or enforcement action does not meet the criteria of an assault with a deadly weapon unless there is a clearly articulable intentional act by the driver to use the vehicle as a weapon.

¹¹ Ibid. pg. 28

alleged to have been used in a violent crime. When officers possess this knowledge, and observe a vehicle associated with one of these crimes, they will initiate a vehicle stop. If one or more law enforcement officers attempt to apprehend the suspected or actual violator of the law in a motor vehicle, and the driver of the motor vehicles uses evasive tactics, such as high speed driving, driving off a highway or turning suddenly and failing to yield to the officer's signal to stop, an officer may initiate a vehicle pursuit *only* if the alleged crime is one listed as a violent forcible crime in OPD's policy.

Police Officer's Responsibilities When Initiating a Pursuit

Vehicle pursuits are dangerous maneuvers that require officers who partake in them to have the ability to multitask while driving. An officer who wishes to initiate a vehicle pursuit is required to get approval from a supervisor first. Once approval is granted, the officer is deemed the primary unit and is in control of the pursuit. The officer is responsible for safely apprehending the fleeing suspect(s) without unnecessarily endangering the lives and safety of the general public and other officers. The officer initially decides to continue in a pursuit or terminate the pursuit. While pursuing the suspect's vehicle, the officer is required to notify a dispatcher on a radio channel of the following information:

- Reason(s) for the pursuit;
- Suspected or known law violations;
- Description of the fleeing vehicle;
- Number and description of occupants, if known; and
- Continually report location, direction of travel, traffic conditions and speeds.¹²

In addition to continually updating the dispatcher with information, the officer is required to consider risk factors in continuing a vehicle pursuit. Below is a list of some of the risks the officer is required to constantly think about while pursuing fleeing suspects:

- The volume of vehicular and pedestrian traffic in the area;
- Location of the pursuit;
- Safety of the public in the area of the pursuit (e.g., the presence of children, the elderly or disabled, the proximity to a hospital or school zone, etc.);
- Safety of the pursuing officers, if applicable;
- Speeds of both officer and suspect vehicles;
- Road and weather conditions;
- Time of day; and
- The safety of the occupants in the fleeing vehicle.¹³

If at any time while pursuing the fleeing suspects the primary officer evaluates the risk factors to outweigh the benefits of immediately apprehending the fleeing suspects, the officer is required to terminate the vehicle pursuit.¹⁴

¹² Ibid. pg. 5

¹³ Ibid. pgs. 2-3

¹⁴ Ibid. pg. 4

Supervisor's Responsibilities During A Pursuit

When the primary unit seeks approval to initiate a pursuit, the supervisor assumes command, control, and responsibility of the pursuit and verbally authorizes or terminates the pursuit. If the supervisor authorizes the pursuit, the officer reasonably believes that the pursuing unit has reasonable suspicion the pursuit involves a violent forcible crime and/or a crime involving the use of a firearm; or probable cause the suspect is in possession of a firearm. The supervisor is required to monitor the pursuit via radio transmissions and maintain control of the pursuit through clear directives and communications with the involved officer(s) and relevant personnel. In addition, at the conclusion of the pursuit, the supervisor is required to proceed to the termination point of the pursuit and direct the actions of field personnel.¹⁵

Types of Pursuits

There are four types of pursuits: Level 1 vehicle pursuit, Level 2 vehicle pursuit, Level 3 vehicle pursuit, and a non-response pursuit. A **Level 1** vehicle pursuit is one that results in death or serious injury likely to cause death. It can also be a Level 2 pursuit raised to a Level 1 by a supervisor or commander. A **Level 2** vehicle pursuit is one that involves injury or property damage and/or one in which a pursuit intervention maneuver (PIM) was utilized during the pursuit. A **Level 3** vehicle pursuit is one that does not result in injury or property damage and a PIM was not utilized. A **non-response pursuit** is NOT a vehicle pursuit. However, it occurs when an officer attempts to stop a vehicle and the violator flees or fails to stop and the officer does not respond to the driver's action, making no attempt to keep up with or pursue the vehicle.¹⁶

Reporting Requirements for Each Type of Pursuit

Level 1 vehicle pursuits are investigated by the OPD's Homicide Unit and Internal Affairs Division and subsequently, each of them produces a report.

Level 2 vehicle pursuits require the reporting supervisor to prepare a Pursuit Report Packet, which includes the following documentation:

- Original Pursuit Report (TF-3051);
- Original signed Pursuit Review Tracking Sheet (TF-3257);
- Copy of completed CHP 187A form¹⁷;
- Copy of Collision Report;
- Copy of Radio purge;
- Copy of the electronic recording file (body worn camera footage), if available, or that a request for a copy is documented;
- Photographs, if available;
- Copy of any statements, if taken;
- Copy of Offense Report; and
- Ancillary documents.

¹⁵ Ibid. pgs. 10-11

¹⁶ Ibid. pgs. 27 and 29

¹⁷ The CHP 187 form is an Allied Agency Pursuit Report, which the California Highway Patrol requires law enforcement agencies to complete and submit anytime they are involved in a pursuit.

The original completed CHP 187A report is forwarded to the OPD's Safety Coordinator in its Training Division, and the supervisor maintains a copy of the Pursuit Report for their file and forwards the Pursuit Report Packet for review through the appropriate chain-of-review. The chain of review is documented on a Pursuit Review Tracking Sheet, which is forwarded with the Pursuit Report Packet.

Level 3 vehicle pursuits require the reporting supervisor to forward only two documents through the chain of review: a copy of the completed CHP 187A form and the Offense Report. Again, the chain of review is documented on a Pursuit Review Tracking Sheet and is forwarded with the two documents. In addition, the reporting supervisor is required to provide the Communications Section with the required pursuit information for entry on a Pursuit Tracking Log.

Non-Response Pursuits requires the reporting supervisor to review the Offense Report and any other documentation and provide the Communications Section with the required information for entry on the Pursuit Tracking Log (TF-3283b).

Pursuit Board Review

All Level 2 and 3 pursuits are reviewed by Department Safety Committee members for compliance with OPD policy, training recommendations, and/or liability issues. Pursuits resulting in injury, vehicle damage or at the request of a supervisor, commander, Department Safety Committee member, or the Chief of Police go to a full board review.

SCOPE AND POPULATION

Scope

This primary focus of this review was to identify factors that contributed to a 75 percent increase in the number of vehicle pursuits from 2017 to 2018.

Population

- Total population of 60 vehicle pursuits in 2017; and
- Total population of 105 vehicle pursuits in 2018.

Objective 1

To identify factors that contributed to the 75 percent increase in vehicle pursuits, the Lead Auditor examined information in the 2018 vehicle pursuit packets (105) and the 2017 vehicle pursuit packets (60). Additionally, four captains, three sergeants and six officers were interviewed.

Objective 2

To determine whether 2018 investigated vehicle pursuits were within policy, the Lead Auditor reviewed the investigation results for each of the 105 vehicle pursuits.

Objective 3

To evaluate whether the OPD's supervision and review of vehicle pursuits, the Contributing Auditor reviewed a sample of 22 vehicle pursuits. To evaluate the operations of OPD's J-4 (Vehicle Pursuits) Boards, the Contributing Auditor observed a J-4 Board and interviewed the Board Chair, a Deputy Chief of Police.

Objective 4

Pursuit characteristics (e.g., collisions, injuries, apprehensions, pursuit intervention maneuver techniques, speed, duration, etc.) were analyzed for all 105 pursuits that occurred in 2018. The Auditor also reviewed pursuit policies from six California police Departments and attended a StarChase presentation.

See Appendix A for detailed methodology.

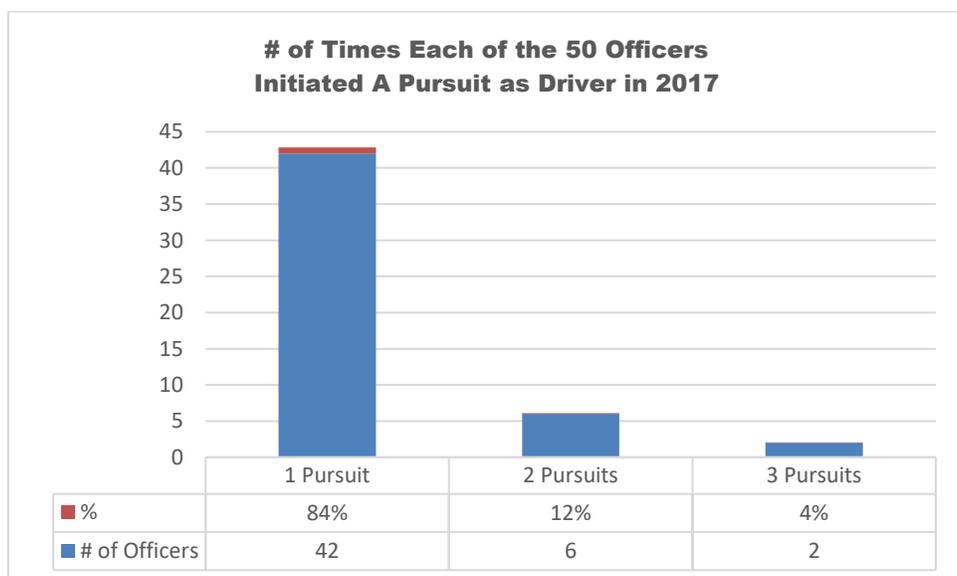
OBSERVATIONS

OBSERVATION #1

There were 13 more officers (26%) who initiated pursuits in 2018 compared to 2017. Three officers respectively initiated 4, 10 and 11 more pursuits in 2018 compared to 2017, which accounted for 55% of the increase in total pursuits.

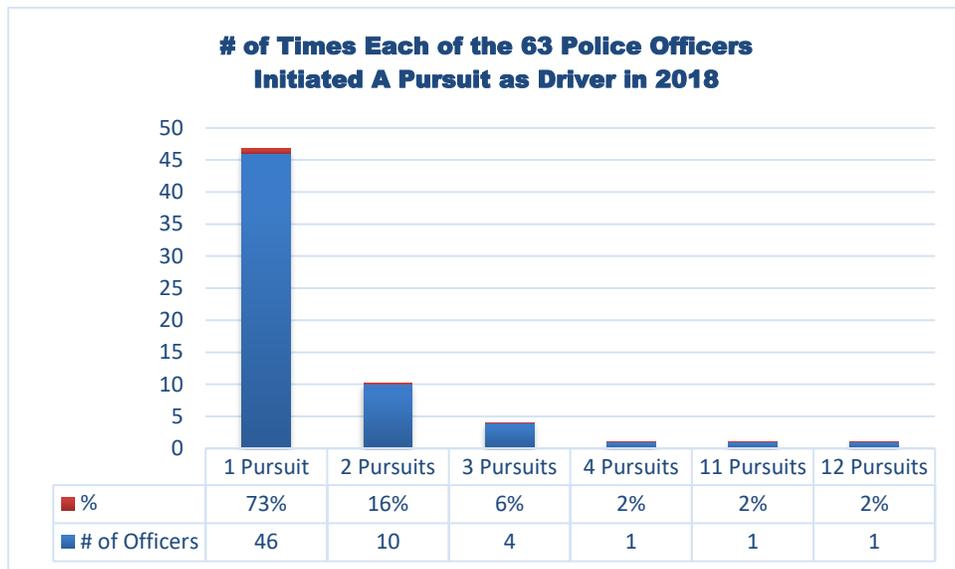
Per Department policy (DGO J-4), the officer(s) who initiates a pursuit is designated as the primary pursuit unit in control of the pursuit until control is relinquished to another unit or otherwise directed by a supervisor or commander. When the primary pursuing unit includes two officers, both are considered initiating officers and are both accountable for ensuring compliance with the pursuit policy.

There were 45 additional pursuits in 2018 compared to 2017. When just focusing on the primary initiating officer identified in each pursuit report in PRIME, even if a second officer was in the primary unit, the OPD reported 50 police officers initiated 60 vehicle pursuits in 2017, with a total of 42 officers initiating only 1 pursuit each; 6 officers initiating 2 pursuits each; and 2 officers initiating 3 pursuits each. The chart below shows the number of times each of the 50 officers initiated a pursuit in 2017.



However, in 2018, the OPD reported a 26% increase in the number of reported police officers initiating pursuits. The total number officers initiating pursuits increased from 50 to 63 (13 officers). Hence, the OPD

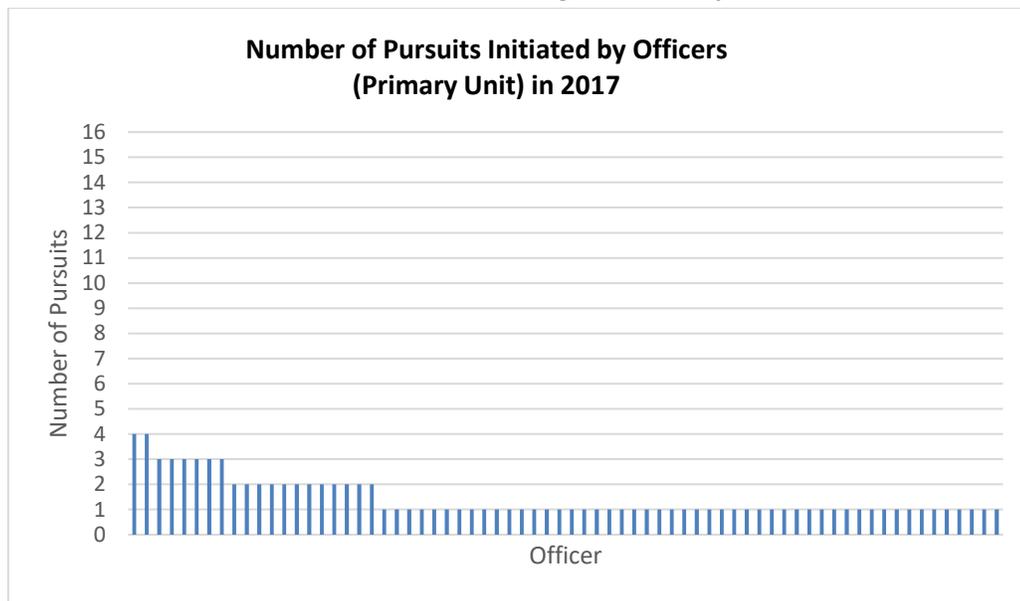
reported 63 police officers initiated the 105 vehicle pursuits in 2018, with a total of 46 officers initiating only 1 pursuit each; 10 officers initiating 2 pursuits each; 4 officers initiating 3 pursuits each; 1 officer initiating 4 pursuits; 1 officer initiating 11 pursuits; and 1 officer initiating 12 pursuits. The chart below shows the number of times each of the 63 officers initiated a pursuit in 2018.



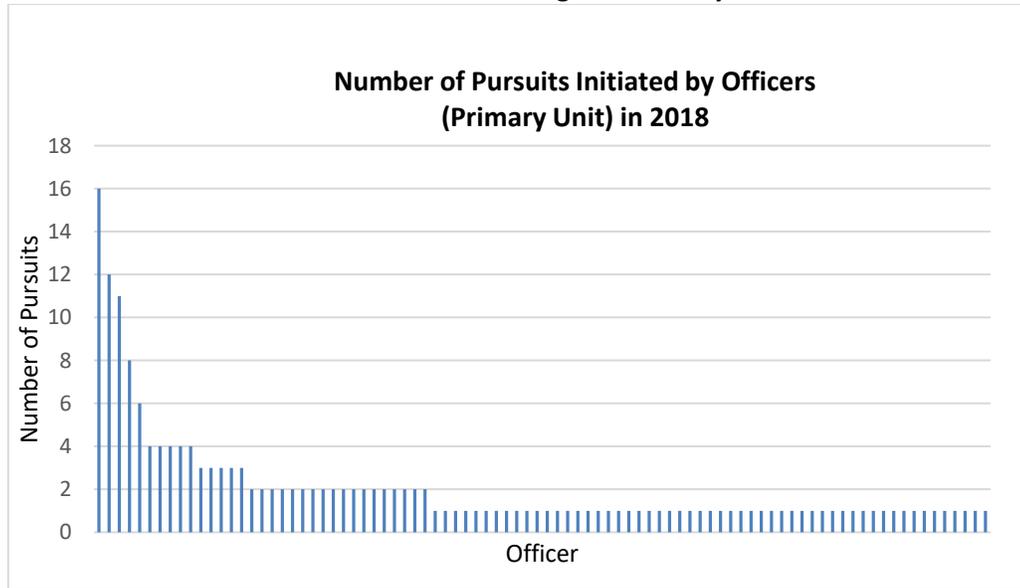
Three officers were responsible for initiating 26% of vehicle pursuits in 2018. In 2017, the most pursuit initiations by any officer was three (two officers each initiated three pursuits). However, in 2018, three officers initiated four or more pursuits, totaling 27 of the Department’s 105 pursuits. There were two officers who experienced significant increases between 2017 and 2018. One officer went from initiating one pursuit to initiating twelve pursuits between 2017 and 2018 and another officer went from initiating no pursuits to initiating eleven pursuits. The officer who initiated the most pursuits in 2018 (a total of 12) was listed as the second initiating officer (riding in the primary pursuing unit) in four additional pursuits, for a total of 16 pursuits. In 2017, the officer was in the primary unit in only two pursuits, so experienced an increase of 14 pursuits as the primary unit between 2107 and 2018, which accounted for 31% of the increase in pursuits (45 more pursuits in 2018 compared to 2017).

The review looked at both primary initiating officers listed in PRIME, as well as the number of officers in the initiating unit (primary pursuit unit). When looking at the top five officers who were either the driver or passenger in the unit initiating the pursuit in 2018, the review found they initiated 29% of all pursuits, and the number of pursuits in which each officer was involved as the driver or the passenger ranged from six to sixteen. In 2017, the top five officers initiated 17% of all pursuits, and the range was three to four pursuits. The tables below show a comparison of the number of pursuits initiated by the top five officers in 2017 and 2018 who were either the driver or passenger in the initiating unit.

2017 Officers Who Were the Driver or Passenger in Primary Vehicle



2018 Officers Who Were the Driver or Passenger in Primary Vehicle



There were four officers who were involved in the greatest number of pursuits as either passenger or driver. One set of officers who often rode together, were involved in a total of 16 pursuits as the primary unit between the two. They were the primary unit in only two pursuits in 2017. Of the 16 pursuits in 2018 as primary unit, the officers were riding together in 11 pursuits (69% of the time). When assessing all 16 pursuits, the collision rate was 25% and the injury rate was 6%, both below the average of all pursuits (36% and 14% respectively). None of their pursuits resulted in serious injuries and their rate of apprehension was 38%. The average distance of their 16 pursuits was 4.2 miles and the average length of time was 4.2 minutes. They were involved in two additional pursuits as a secondary unit in 2018. None of their pursuits were found out of compliance.

The second set of officers, who also often rode together, were involved in a total of 11 pursuits as the primary unit between the two. They were the primary unit in only one pursuit in 2017. Of the 11 pursuits as primary unit in 2018, the officers were riding together in 8 pursuits (73% of the time). When assessing all 11 pursuits, the collision rate was 36% and the injury rate was 27%, a higher than average injury rate. They also had a 45% apprehension rate. The average distance of their 11 pursuits was 2.3 miles and the average length of time was 2.3 minutes. Two of the 11 pursuits (one with both officers in the primary unit and one with only one officer in the primary unit) ended in serious injuries. In one of the two, the pursued vehicle was reported as being involved in a robbery involving a gun. In the other, the pursued vehicle was reported as being involved in a robbery and assault with a deadly weapon. These two pursuits are described in more detail in Observation #8. None of their pursuits were found out of compliance.

There was another set of officers, who often rode together and were involved as either passenger or driver in five pursuits. They were involved in one of the three pursuits in 2018 that resulted in a serious injury. The pursued vehicle in that pursuit was reported as being involved in a strong-armed robbery. They were also involved in one pursuit that was found out of compliance for not getting supervisory approval for the pursuit. The average distance of their pursuits was 4.3 miles and the average length of time of their pursuits was 5 minutes. They also had a 50% collision rate and 25% injury rate, higher than the average. Their apprehension rate was 80%.

An additional two officers had four and six pursuits as either the driver or passenger in the primary pursuing unit. One officer had no pursuits in 2017 and was the solo initiating officer in four pursuits in 2018. All four pursuits were in compliance. The officer's average pursuit distance was five miles and the average time of pursuit was six minutes. The officer's collision rate was 50% and injury rate was 25%. In 75% of the pursuits, the suspect was apprehended, and no pursuits involved serious injuries or were found out of compliance.

The officer with six pursuits in 2018, was the primary initiating officer in three pursuits and the secondary initiating officer (in the primary unit) in an additional three pursuits. The officer had no pursuits in 2017. The average distance of the officer's pursuits was 7.5 miles and the average length of time was 6.3 minutes. The officer's collision rate was 67% and the injury rate was 33%. Suspects were apprehended 67% of the time and there were no serious injuries resulting from the pursuits. All pursuits were found in compliance.

Additional Observation

It is important to note that all officers involved in a pursuit are entered into PRIME, including the primary unit, secondary unit and any subsequent units. Supervisors and commanders can track all pursuits for each employee and quickly see the reason for the pursuit and whether there was a collision or injury. However, only eight officers can be entered into the form in PRIME where involved officers are listed. Additional officers are included in the report narrative. There were three pursuits in 2018 that involved more than eight officers, due to multiple units with two officers. Not all units involved in the pursuits were pursuing at the same time. The officers who did not get entered in the pursuing officer fields in PRIME, due to the eight officer limitation, would be short a pursuit in their total pursuit count. This impacted up to six officers in 2018.

One of the three pursuits involved six units and eleven officers (5 units with two officers each and 1 unit with one officer). The pursuit was for a homicide suspect and ended with a collision and apprehension of the

suspect. The second of the three pursuits involved six units and ten officers (4 units with two officers each and 2 units with one officer each). The pursuit was for a vehicle involved in a robbery. There was no collision and a suspect was apprehended. The third pursuit involved six units and nine officers (3 units with 2 officers each and 3 units with 1 officer each). The pursuit was for a vehicle involved in a robbery with a firearm. There was no collision and a suspect was apprehended. All three pursuits with more than eight officers were found in compliance.

The eight officer limitation in PRIME has been resolved with the implementation of Vision, a new technology system that replaced PRIME in November 2019. Vision does not have a limitation to the number of officers that can be entered in a Pursuit form.

OBSERVATION #2

Pursuits for vehicles involved in robberies – including robberies, home-invasion robberies and carjackings – made up the largest percentage of total pursuits and increased by 117% from 2017 to 2018 (35 additional pursuits).

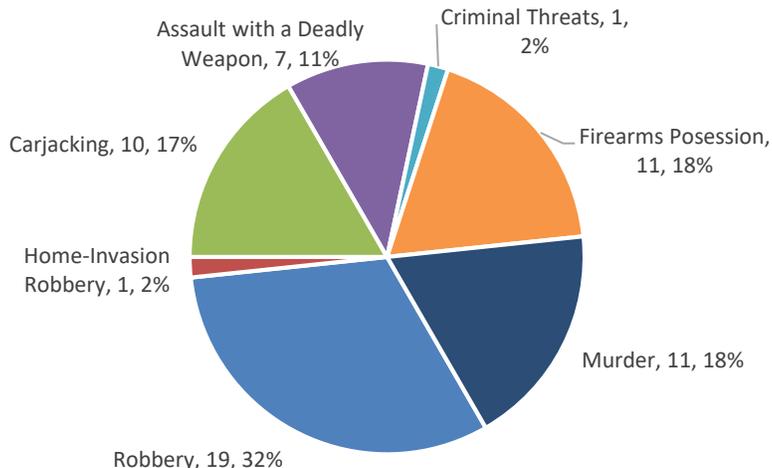
Robberies, including home-invasion robberies and carjackings,¹⁸ made up the largest percentage of pursuits in both 2017 and 2018. Based on data received from the Departmental Safety Coordinator, in 2017, OPD reported 60 vehicle pursuits, 30 (51%) of which were initiated because of vehicles involved in robberies. In 2018, OPD reported 105 vehicle pursuits, 65 (62%) of which were initiated because of vehicles involved in robberies. Consequently, OPD reported a 75% increase in the total number of vehicle pursuits, and a 117% increase in the number of pursuits for vehicles involved in robberies. The graphs below show the reasons for vehicle pursuits in 2017 and 2018.

¹⁸ *California Penal Code 211, Robbery*: is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.

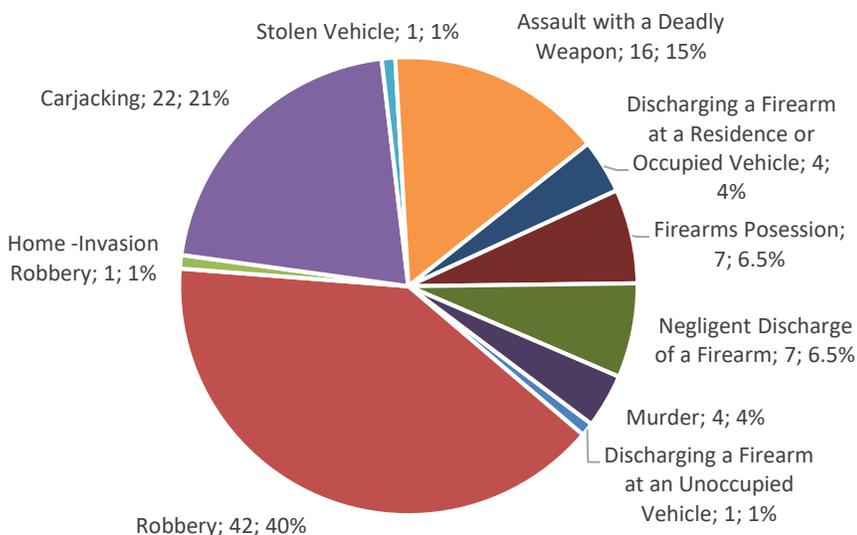
California Penal Code 212.5 PC, Home-Invasion Robbery: is a robbery which is perpetrated in an inhabited dwelling house.

California Penal Code 215, Carjacking: is the felonious taking of a motor vehicle in the possession of another, from his or her person or immediate presence, or from the person or immediate presence of a passenger of the motor vehicle, against his or her will and with the intent to either permanently or temporarily deprive the person in possession of the motor vehicle of his or her possession, accomplished by means of force or fear.

Vehicle Pursuit Offenses 2017



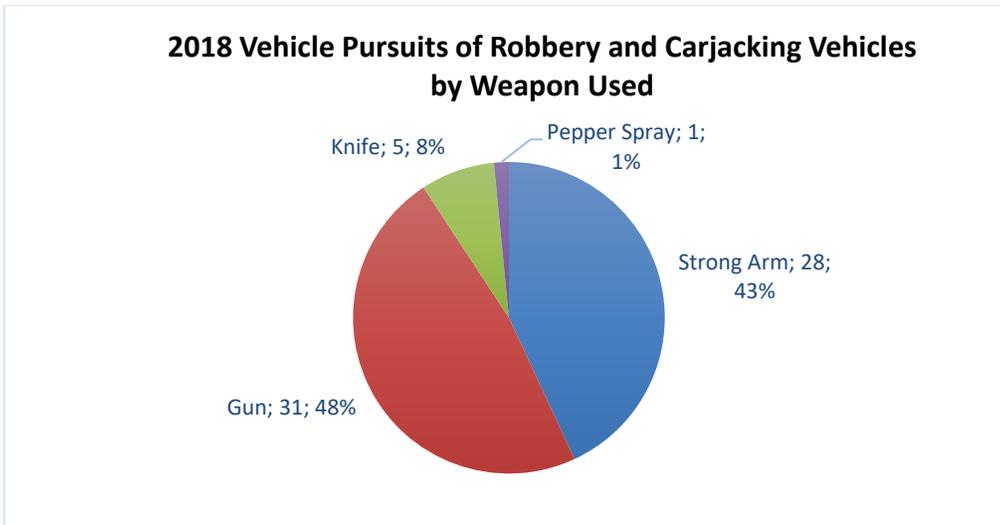
Vehicle Pursuit Offenses 2018



Additional Observation

Based on victim's descriptions of suspects, pursuits of vehicles involving strong-arm robberies tended to have more suspects involved and the suspects tended to be juveniles, compared to pursuits of vehicles for robberies involving a firearm.

The review identified two primary categories of robberies. Strong-arm robberies involve a robbery or carjacking using physical force, such as pushing, punching, kicking, etc. Other robberies involve the use of a firearm (suspect had a gun). All robberies and carjackings are pursuable offenses per policy. In 2018, there were 65 pursuits for robbery and carjacking. Of those, 28 (43%) were for strong-arm robbery or carjacking, and 31 (48%) were for robbery or carjacking with a firearm. There were an additional six robberies and carjackings that involved a weapon other than a firearm. The table below shows the breakdown of the type of weapon used in robberies and carjackings in 2018.



In 12 out of the 15 pursuits (80%) where someone was arrested following the pursuit of a strong-arm robbery vehicle, the suspect and occupants were juveniles. One of the risk factors listed in DGO J-4 for officers to consider when initiating or continuing a pursuit is whether the suspect is known to be a juvenile. For pursuits of strong-arm robbery vehicles, the average age of occupants was 14.9 years old and the average number of occupants in the suspect vehicle was 3.5. This observation was concerning, given the elevated risk to the safety of all involved in the pursuit when the driver of the strong-arm robbery suspect vehicle is likely a juvenile, potentially even too young and inexperienced to obtain a driver's permit, and the suspect vehicle is full of other juveniles. In the pursuit policy, the presence of juveniles in the suspect vehicle, the safety of the public, and the safety of the occupants in the suspect vehicle are all stated risk factors to consider when engaging in or continuing in a pursuit.

The following table shows the strong-arm robbery suspect description from the original crime report, which was provided by the victim. In most of the descriptions, there are multiple suspects, and the age range indicates the possibility that the suspects are juveniles.

Victim's Description of Suspects for 2018 Strong-Arm Robbery Pursuits

Pursuit Report	Suspect Description
18P-0002*	MB, 20's
18P-0030*	FB, 50's, MB, 50's
18P-0036	4x MB, 15-18, 3x FB, 15-18
18P-0039	2x MB "about 18 yrs", 1x MB or FB, 20's, 1x driver unknown
18P-0040	2x MB 15-18, 2x FB 15-18
18P-0045	3x MB's, 15-18 yrs old
18P-0051	2x MB, 17-20, 1x FB
18P-0052	2x MB's, 20's

18P-0062	2x MB's 18-20, 1x unknown driver
18P-0063*	MB, 24-25 yrs, FB 20-24
18P-0071	3x MB 15-20
18P-0084	3x MB, 18-20
18P-0088	2x FB, 15 yrs
18P-0096	MW, 20's, MB, 20's
18P-0101	2x MB 18-20, 1x MW 18-20

*Indicates an adult was arrested at the end of the vehicle pursuit.

When compared to strong-arm robberies, the suspect description of those who committed robberies and carjackings with a firearm were different. On average, the suspect arrested was an adult, the vehicle was occupied by less people, and the punishment was much more severe. Eighty percent of suspects arrested following a pursuit for robbery or carjacking with a firearm were adults. The average sentence received was 1.25 years. This did not include two suspects who have been held in custody since their arrest, but their case has yet to conclude. It also did not include two suspects who have been released from custody, but their case has yet to conclude.

In contrast, juveniles were less likely to receive a serious sentence when apprehended for robbery at the conclusion of a pursuit. A total of 25 juveniles were arrested for robbery following a pursuit, but only five were sustained for robbery, and ten were sustained for other crimes. Five received formal supervision, nine received placement, and four received formal supervision and placement. A deeper look at their juvenile criminal history showed that the average number of times the occupants were arrested previously for penal code violations was five times. This did *not* include the arrests for violations of the terms of their supervision, which if included, would have increased the average number of times arrested. Conversely, the two adults arrested for strong-arm robbery following a pursuit received an average of 1.1 years.

2018 Strong-Arm Robberies vs. Robberies Involving a Firearm

	Robbery or Carjacking with a Firearm	Strong-Arm Robbery or Carjacking
Pursuits	31	28
Apprehensions	16	15
Average Number of Occupants in Suspect Vehicle	2	3.5
Suspects Apprehended were Juveniles	3	12
Average Age of Occupants	Over 18	14.9

OBSERVATION #3

In late 2017, OPD increased its emphasis on intelligence-led policing, a strategy that involves timely access to intelligence and focuses officers' efforts on specific targets. Officers engaged in the highest number of pursuits indicated they are identifying more vehicles involved in crimes based on intelligence.

An intelligence-led pursuit is an incident where an officer has prior knowledge of a car involved in a crime¹⁹, observes the car and chooses to initiate a pursuit. To determine whether pursuits were initiated due to intelligence, the lead auditor read all the vehicle pursuit reports from 2017 and 2018. If the report indicated the pursuit was initiated because the officer recognized the vehicle from information contained in one of these forms of communication, the auditor recorded it as an intelligence-led pursuit. If the report indicated the pursuit was initiated from a dispatched call for service, the auditor recorded the pursuit as not being intelligence-led. Using this as a metric, 84 pursuits in 2018 were intelligence-led compared to 49 pursuits in 2017.

In 2017, the department began increasing emphasis on intelligence-led policing. Efforts were made to provide timely, specific intelligence to officers to aid them in focusing their enforcement efforts. These communications have been dispersed in daily lineups, e-mails, daily logs, intelligence summaries, and daily bulletins. During interviews with officers involved in the most pursuits, they described going through e-mails and making lists of specific vehicles to be on the lookout, those that were related to violent crimes. In addition, in 2017, the Executive Command provided direction through the chain of command to de-prioritize stops of vehicles for minor equipment violations, and rather focus on public safety and intelligence-led stops. During interviews with some of the top pursuing officers in 2018, they described a passionate and methodical approach to the process, involving compiling lists of wanted vehicles. One officer described checking e-mails, shortly after waking up, for vehicles suspected of being involved in violent crimes. Another officer stated that he had developed a skill set for identifying vehicles.

The officer who initiated the highest number of pursuits in 2018 initiated 92% due to intelligence. The officer who initiated the second highest number of pursuits initiated 64% due to intelligence. The officer who initiated the third highest number of pursuits initiated 100% due to intelligence. Of all pursuits initiated by the top five officers (passenger or driver in the primary unit), 37 of their 42 (88%) pursuits were initiated due to intelligence.

The effects of intelligence-led policing can also be seen in the reduction of stops. All discretionary stops, with some minor exceptions, between 2014 and 2018 required the completion of a field interview/stop data form. The number of documented stops decreased by 37% between 2017 and 2018. By design, fewer discretionary stops for low level violations allow officers more time to focus on vehicles involved in violent crimes.

Discretionary Stops 2014-2018²⁰

	2014	2015	2016	2017	2018*	% Change 2017-2018
Discretionary Stops	33,251	37,955	32,569	31,528	19,900	-37%

¹⁹ Department policy limits pursuits to when there is reasonable suspicion to believe the suspect committed a violent forcible crime and/or a crime involving the use of a firearm, or probable cause that the suspect is in possession of a firearm.

²⁰ Data taken from the Oakland Police Department 2016-18 Racial Impact Report. The asterisk next to 2018 refers to a note that 2018 data only goes through December 19, 2018.

Another indicator of the focus on intelligence-led policing can be seen in the non-response pursuits. When a driver flees a traffic enforcement stop, but the officer does not pursue the vehicle because policy does not allow based on the offense, it is tracked as a non-response pursuit.

A drop in non-response pursuits could be related to the focus on intelligence-led policing, because officers may be doing more enforcement stops on vehicles that meet the criteria for pursuable offenses (violent felonies and firearms related crimes), rather than stops for equipment violations. A review of non-response pursuit data shows a 33% decline from 2017 to 2018. During interviews, officers said now that they are focused primarily on vehicles linked to pursuable violent crimes, when the vehicle fails to pull over, they initiate a pursuit.

Non-Response Pursuits 2016-2018

	2016	2017	2018	%Change 2017-2018
Non-Response Pursuits	232	229	154	-33%

In addition to reviewing the data, four current or recent area commanders (captains of police assigned to a patrol area of the city), three patrol sergeants and six patrol officers were interviewed about pursuits, including possible reasons for the increase. The consensus from everyone interviewed was that the Department’s focus on intelligence-led policing has contributed to the increase in pursuits.

The Ceasefire Captain elaborated on the topic by stating, “Making intelligence-led stops came from the Chief of Police...Officers have lots of intelligence: photos, bulletins, etc. They even receive intelligence from other agencies (i.e., Berkeley, Piedmont, Richmond) about cars involved in violent crimes.” The Training Division Captain (formerly the Area 4 Captain) added, “The number of vehicle pursuits picked up because I pushed out messaging [related to intelligence-led policing]...Officers are no longer doing low-level stops and, therefore, they have more work time to look for vehicles [associated with violent forcible crimes]. The number of police officer discretionary stops is down, but the number of vehicles associated with violent forcible crimes is up.”

During interviews with the officers and sergeants, one officer described the time-saving effect of reduced discretionary vehicle stops and one officer estimated that there was now an extra two hours in a shift freed up to look for vehicles linked to violent crimes. The other officers interviewed made similar statements. Most officers interviewed indicated that they are being exposed to real-time information from multiple sources. This contemporaneous information increases the chance that vehicles will be located.

Additional Observation

The officers, sergeants and captains interviewed referred to more comprehensive, behind-the-wheel pursuit training, which started in 2017. According to those interviewed, the improved training helps experienced officers hone their skillset and helps new officers increase confidence in a pursuit, both of which may also have contributed to the increase in number of pursuits

OBSERVATION #4

OPD’s Departmental Safety Committee found 101 (97%) of 104 vehicle pursuits complied with policy.

In 2018, OPD reported there were no Level 1, 43 Level 2, and 62 Level 3 pursuits. All Level 2 and Level 3 pursuits are reviewed twice. First the respective supervising sergeant investigates the pursuit for compliance

with policy and the chain of command reviews the investigation and approves it. In addition, the Departmental Safety Committee reviews the pursuit for compliance with policy, training recommendations, and/or liability issues.²¹ One hundred five pursuit investigations were conducted by the respective supervising sergeant, and 104 (99%) of them were found in compliance with policy. There was one pursuit in which a supervising sergeant's investigation deemed it to be out of compliance. This same incident was forwarded to the Internal Affairs Division for further investigation. Subsequently, the Departmental Safety Committee reviewed the 104 pursuit investigations and 101 (97%) were found in compliance.

Of the 105 vehicle pursuits, 104 (99%) of them met the criteria²² for pursuable offenses. The one pursuit that did not meet the criteria was a pursuit initiated by a police officer to recover a stolen OPD Police Service Technician's work vehicle. The officer requested permission to pursue the vehicle, and the supervisor granted him/her permission to pursue only until the OPD's Air Support²³ could take over. When OPD Air Support advised that they were not immediately available, the Watch Commander promptly cancelled the pursuit. The Pursuit Board found this pursuit in compliance. However, in a follow-up training bulletin, "Training Points For J-4 1st Quarter 2019," the Departmental Safety Committee emphasized that the prohibition of pursuits of stolen vehicles included OPD vehicles.

OBSERVATION #5

Upon reviewing 22 pursuit incidents, the review indicated that OPD's process for reviewing pursuits identifies and appropriately handles most issues.

A Contributing Auditor conducted a detailed review of 22 pursuit incidents to assess supervision of pursuit incidents. While the Contributing Auditor noted two areas of concern – some Police Officers did not properly utilize their body worn camera and some supervisors did not address tactical issues, when necessary – the Department adequately handled most of the issues.

Body Worn Cameras

A review of the body worn camera footage for the 22 vehicle pursuits indicated there were 18 (82%) incidents in which police officers properly activated and deactivated their body worn cameras²⁴. There were three (9%) incidents in which police officers failed to properly activate their body worn cameras during the pursuits, but their respective supervisors addressed the issues through training supervisory notes entries. Lastly, there was one incident with potential failures to activate properly and there was no documentation by a supervisor addressing them.

One pursuit, which was a Level 3 pursuit, lasted one minute and spanned one mile. The primary unit, a sergeant, cancelled the pursuit due to speed. The sergeant did not activate his body worn camera, but his respective supervisor addressed the issue. Two officers in a secondary unit are listed in the pursuit report as being involved in the pursuit. One of these officers had no body worn camera footage of the incident and the

²¹ Ibid. pg. 24

²² Although many of the crime reports involved multiple criminal violations, the Lead Auditor counted only the primary criminal violation as the reason for the pursuit.

²³ The law enforcement officers who fly the helicopter.

²⁴ Body-worn camera footage of the pursuit was reviewed, so not all footage from all officers was necessarily reviewed for the entire incident.

other officer had footage, but only 10 seconds worth. The 10 seconds of video appears to show the officers trying to find the primary unit. The pursuing sergeant's crime report stated that the two officers in the secondary unit had advised him that they were behind him. There was no documentation addressing either officers' use of their body worn cameras.

Tactical Issues

Of the 22 pursuit incidents reviewed, only 14 incidents were applicable because there were no tactical issues identified in seven pursuits and there was one pursuit in which there were tactical issues identified, but the OIG, in a prior review, had already referred it to the OPD's Internal Affairs Division for further investigation.

A review of the 14 applicable vehicle pursuits indicated there was only one incident in which a police officer's use of improper driving tactics was not adequately addressed by the supervisor; however, the OPD's Pursuit Board adequately addressed the issues. Therefore, the OIG deemed the handling of the incident to comply with OPD policy.

In the incident, a primary unit was pursuing a suspect in a motor vehicle and appropriately self-terminated the pursuit when the suspect drove on the wrong side of the road. Another unit located the fleeing suspect vehicle moments later and began pursuing again. The initial primary unit became the second unit in the pursuit and a third unit joined the pursuit. This time the suspect drove at high speeds in the wrong lanes of traffic on a busy roadway. The officers failed to terminate the pursuit even though it was the same scenario that caused the initial primary unit to terminate the first time. Subsequently, the suspect vehicle continued driving on the wrong side of the road and crashed into two civilian vehicles when attempting to make a turn. The supervisor was admonished for not terminating the pursuit. Two officers, who were the third unit in the pursuit, were late activating their lights and siren and completed their supplemental report under the wrong report number. The OPD's J-4 board, upon reviewing this vehicle pursuit incident, identified and addressed all these issues. In addition, the Board referred this incident to OPD's Internal Affairs Division for further investigation.

The remaining 13 incidents in which tactical issues were identified were addressed by their respective supervisors.

OBSERVATION #6

While the current pursuit board process includes a comprehensive review of pursuit compliance, tactics and safety, the OPD policies regarding pursuit boards do not sufficiently address the board responsibilities and procedures.

The policies that address pursuit boards are Department General Order J-4, *Pursuit Driving* (dated 25 Aug 14), and Department General Order G-4, *Departmental Safety* (dated 24 Aug 98). Department General Order J-4 includes a section on the responsibilities of the Departmental Safety Coordinator/Committee. The Departmental Safety Committee is the body that conducts a pursuit board. The policy requires the Departmental Safety Committee to review all Level 2 and 3 pursuits for compliance with OPD policy, training recommendations, and/or liability issues. A Departmental Safety Committee is convened for a full board of review for the following pursuits:

- A pursuit resulting in injury;

- Departmental vehicle damage; and
- At the request of any supervisor, commander, the Departmental Safety Coordinator, or any member of the Departmental Safety Committee, who has reviewed the Pursuit Report packet, to address Departmental training and/or tactical issues that cannot be handled at his or her level of supervision/command.

The policy also requires the investigating supervisor and subject members involved in the pursuit to present to the full Department Safety Committee during a pursuit board, and the Chairperson or designee to forward all “out of compliance” pursuits to the Internal Affairs Division for discipline processing.

Department General Order G-4 details the responsibilities of the Department Safety Coordinator and Department Safety Committee. However, this policy was last revised in August 1998 and is primarily focused on vehicular and non-vehicular accidents, rather than pursuits.

The purpose of this order is to set forth the responsibilities of the Departmental Safety Coordinator, the Safety Committee, the Safety Appeal Board, and all members and employees CHP for maintaining safe equipment and safe work habits and conditions. The order also sets forth procedures for reviewing vehicular and non-vehicular accidents involving Departmental personnel.

DGO G-4 does refer to a special order regarding the Committee’s review of pursuits, but the special order was unable to be located:

The Committee shall review pursuit reports referred to it by the Chief of Police, in accordance with the procedures set forth in Special Order No. 4674

The policy also dictates the composition of the Departmental Safety Committee; however, the current pursuit board composition is different than what is stated in DGO G-4. Currently, a Deputy Chief serves as the Chairperson and there are two lieutenants and three sergeants. The Committee does not include a Traffic Division sergeant. In contrast, DGO G-4 requires the following composition.

Departmental Safety Committee per DGO G-4

Permanent Members

- Training Commander who serves as the Chairperson
- Department Safety Coordinator
- Traffic Division Sergeant
- City Attorney Representative (non-voting)

Temporary Members to serve six-month terms

- One Captain
- One Lieutenant
- One Sergeant
- One Police Officer

Neither DGO G-4 or DGO J-4 adequately address the board process or responsibilities of its members, such as:

- Selection requirements for board members
- Responsibilities of the board members
- Board timelines
- Process for handling board findings/outcomes, especially if there are policy violations identified
- Board reporting
- Training of board members

Not having a policy that clearly delineates the composition of the pursuit board and the duties and responsibilities of each member leaves the department vulnerable to inconsistencies and reduced effectiveness when board members change.

Additional Observation

The notification process, acknowledgement of right and obligations form and partial waiver form used for pursuit boards should be reviewed to ensure clarity about officers' POBAR rights, potential discipline and representation.

During the full board process, officers involved in the pursuit present to the board and answer questions from board members. Prior to presenting, officers are asked to sign a "partial waiver" of their Police Officer's Bill of rights (POBAR) under section 3303(b), which states:

"The public safety officer under investigation shall be informed prior to the investigation of the rank, name, and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. All questions directed to the public safety officer under interrogation shall be asked by and through no more than two interrogators at one time."

The partial waiver form waives only the portion of the POBAR section 3300 that limits interrogations to two interrogators at a time.

The POBAR section 3303 states in part:

"When any public safety officer is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the employing public safety department, that could lead to punitive action, the interrogation shall be conducted under the following conditions. For the purpose of this chapter, punitive action means any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment."

Pursuit board members question involved officers directly about policy violations such as performance of duty issues and body worn camera violations, during the board. After the officers are questioned by the board, the board members vote and come to a finding of in compliance or out of compliance for the pursuit. Out of compliance findings are forwarded to Internal Affairs and result in discipline. Policy violations that are discovered during the board proceedings are handled by a supervisory note file entry or forwarded to the Internal Affairs Division for further investigation. Therefore, the questioning of the officers, which may result in discipline, requires the rights in the State of California Public Safety Officers Procedural bill of Rights Act (POBAR) to be afforded to officers during this questioning.

The POBAR 3304 Section (c) states:

"Upon the filing of a formal written statement of charges, or whenever an interrogation focuses on matters that are likely to result in punitive action against any public safety officer, that officer, shall

have the right to be represented by of representative of his or her choice who may be present at all times during the interrogation.”

In addition to the partial waiver form, officers questioned at pursuit boards sign the acknowledgement of rights and obligations form, which clarifies that subjects of internal investigations have a right to representation. However, officers involved in pursuits and questioned by the pursuit board, are not explicitly subjects of internal investigations, even though they could be found out of compliance with the pursuit policy and be disciplined as a result.

OBSERVATION #7

There were two pursuits that resulted in severe injuries, but only one had a Fatal Accident Team callout.

Although there were three pursuits categorized as having severe injuries, in one incident, the injured suspect was able to run from the scene. In the other two pursuit incidents, suspects were ejected from their vehicles during a collision resulting from the pursuit. In one incident, the suspect vehicle was involved in a single vehicle roll over collision, and the suspect sustained skull and facial fractures and a lacerated liver. When the pursuing officers arrived on-scene of the collision, the suspect appeared to be unconscious and was bleeding from the head. Prior to medical transport, the suspect appeared to regain consciousness and was moaning. According to the pursuit report, the investigator was informed by the treating physician that the suspect’s medical condition was “critical” and that the injuries were not likely to cause death. There was no indication in the pursuit report that the Fatal Accident Team was called to the scene to investigate.

In the other incident, the vehicle being pursued collided with a marked OPD patrol vehicle. The driver was ejected and sustained wrist, clavicle, leg and vertebra fractures. The passenger sustained a broken arm. According to the pursuit report, the driver was “bleeding from the forehead area and going in and out of consciousness.” The on-scene Lieutenant authorized a Fatal Accident Response Team callout to conduct a collision investigation.

Department General Order J-4 requires a Level 1 pursuit investigation if a vehicle pursuit within the City of Oakland results in a death or injury likely to cause death. The assigned supervisor/commander is required to notify the Fatal Accident Standby Team, the Internal Affairs Division, and the Homicide Section, if OPD personnel are involved in the pursuit. The policy does not define “injury likely to cause death.”

The Department’s force reporting and investigation policy (Department General Order K-4) requires all Level 1 uses of force and in-custody deaths to be heard by the Executive Force Review Board. A Level 1 use of force includes, in part:

Serious bodily injury, to include:

- a. Any use of force resulting in the loss of consciousness; and*
- b. Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis.)*

While DGO J-4 does not define “injury likely to cause death,” DGO K-4 considers force resulting in loss of consciousness a Level 1 use of force and requires a Level 1 force investigation, that is a concurrent investigation by the Homicide Section and Internal Affairs Division.

Severe injuries resulting from a pursuit present significant risk to the Department. Even if injuries do not cause death or likely cause death, some injuries can have enormous impacts and in some cases be life altering to those injured (i.e., paralysis, loss of limb). With that in mind, incidents where a serious injury results from a police pursuit should be investigated thoroughly, with a high level of expertise, even if the injury is not “likely to cause death.”

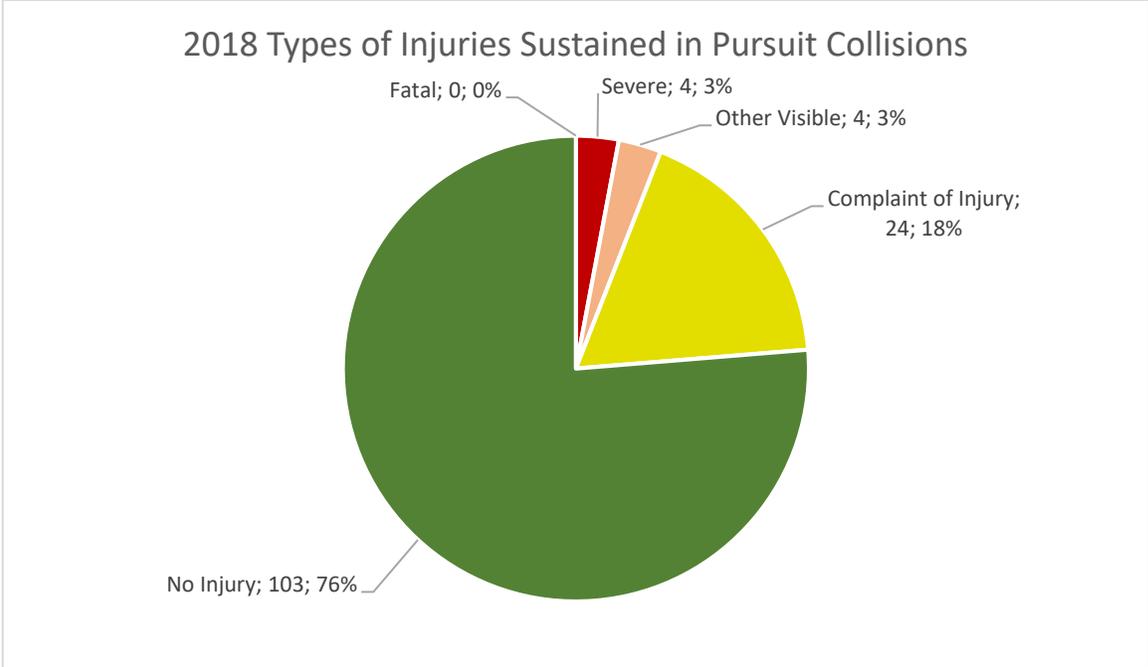
OBSERVATION #8

Thirty-six percent of pursuits involved a collision, and six percent of those involved in a pursuit collision (officers, suspect drivers and passengers, and uninvolved subjects) had injuries beyond complaint of injury.

There were 38 pursuits in which there was a collision. The Department documents a collision related to a pursuit for a wide range of incidents (minor damage caused by hitting roadside debris or paint transfer from scraping against another vehicle to a high-speed broadside collision with significant damage). Although the average collision rate of all pursuits was 36%, this collision rate benefited from the large number of pursuits that were terminated by the pursuing officer(s) or their supervisor. In 33 of the 38 pursuits involving a collision, the pursuit was not terminated by an officer or supervisor. In the 33 pursuits that were not terminated by an officer or supervisor, suspects were apprehended at the conclusion of the pursuit, or the suspect vehicle came to a stop but the suspect(s) fled on foot. When a pursuit was not terminated by an officer or supervisor, and when air support was not available to take over, the collision rate was 67%.

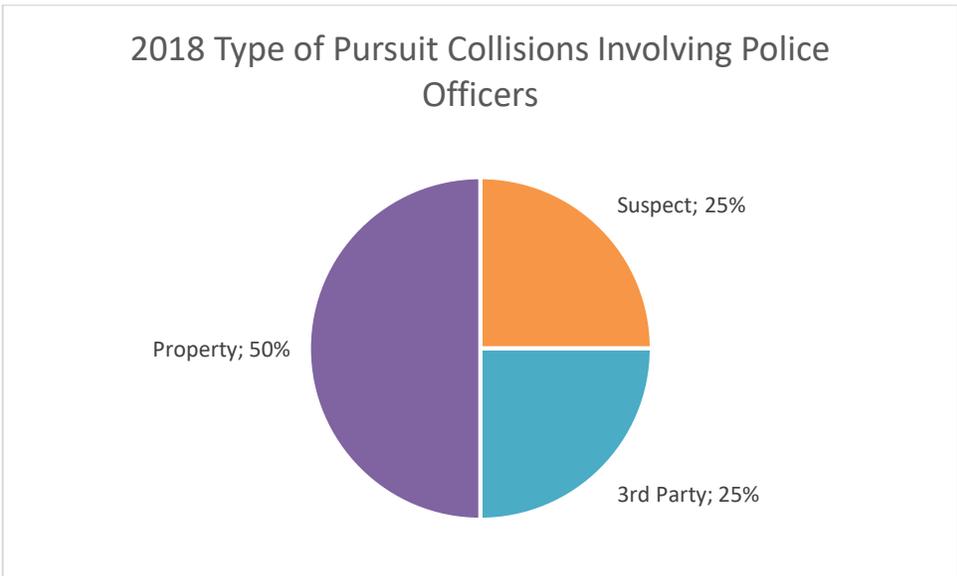
Of the 105 pursuits in 2018, 14% involved some type of injury. There were 135 people involved in a pursuit collision (No pedestrians were involved). Seventy-six percent of those involved in a pursuit collision reported no injuries. The remaining 24% reported some level of injury as described on the CHP 187 form: complaint of injury, other visible injury, severe injury. Only eight of the 136 people involved in a pursuit collision had a visible injury.

There were four “other visible injuries,” which accounted for 3% of reported injuries. They were relatively minor and did not require medical attention beyond basic first aid. They were described in the following way: a head laceration, abrasions to the hip, an abrasion to the finger, and a bruised leg. The graph below shows the breakdown of injuries for pursuits in 2018.



As described in Observation #7, three pursuit incidents involved “severe injuries,” three suspects and one passenger. The severe injuries accounted for 3% of reported injuries. One suspect sustained skull and facial fractures and a lacerated liver, and the passenger in the suspect vehicle sustained a broken arm. Another suspect sustained wrist, clavicle, leg, and vertebra fractures. A third suspect sustained a lacerated spleen and liver.

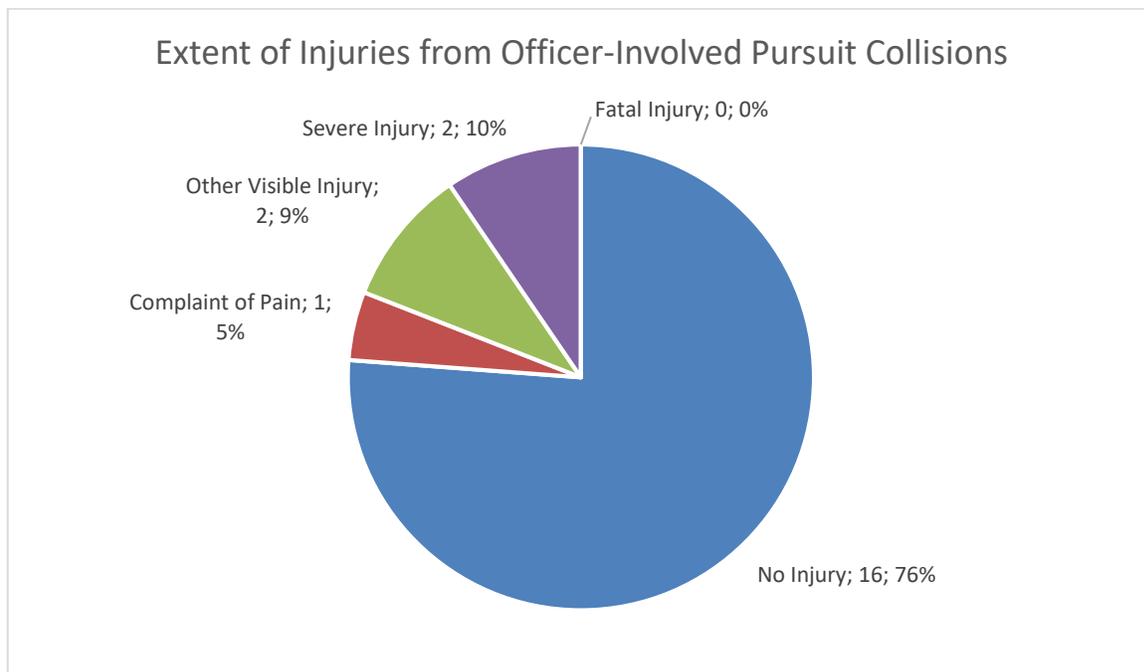
Of the 38 pursuit collisions in 2018, officers were an involved party in eight of them, which accounted for about 8% of all pursuits. Including suspects, officers, and uninvolved motorists, 21 people were involved in the officer-involved collisions. The graph below shows the types of collisions police officers were involved in in 2018.



Two officer-involved collisions were with the suspect vehicle. One of these was a broadside collision at an intersection with a unit that was attempting to enter the pursuit as the #2 vehicle. It resulted in major damage to both vehicles. The suspect suffered severe injuries after being ejected from the vehicle, the passenger in the suspect vehicle also suffered an arm fracture, and the two officers suffered minor abrasions. The other officer-involved collision with a suspect vehicle was relatively minor. It occurred when the suspect stopped suddenly and surrendered. At low speeds, the police officer rear-ended the suspect vehicle, which resulted in minor paint transfer and no injuries.

Two officer-involved collisions were with a motorist who was not involved in the pursuit. Both collisions caused moderate damage to the police and civilian vehicles, but no reported injuries.

Four officer-involved collisions were with property. Two of the property collisions were with curbs, one was with the fence of a business, and one was with road debris. The collisions resulted in minor damages and no injuries. Overall, 90% of officer-involved collisions during a pursuit did not have any injuries or did not require medical attention beyond basic first aid. The graph below shows the extent of injuries from officer involved pursuit collisions.



OBSERVATION #9

The Department's few tools to reduce the risk of pursuits (i.e., air support and surveillance) are limited in their availability.

There are tools available to help reduce the risk of pursuits by physically stopping the suspect car or tracking a suspect car. Some of the tools available to OPD officers include pursuit intervention maneuver techniques, air support, and surveillance. There are also relatively new technologies available to assist police agencies in tracking cars, which OPD did not have access to at the time of this review.

Surveillance

If resources permit, pursuits can be avoided with the use of surveillance. Rather than observing a vehicle involved in a violent felony and initiating a pursuit, officers can use surveillance techniques to apprehend the suspect vehicle and its occupants. However, since surveillance techniques are resource intensive, they aren't commonly used by patrol officers.

While 92% (97 out of 105) of pursuits involved an unknown suspect, in cases where the suspect was known, surveillance and undercover officers were used to avoid engaging in a pursuit 6 out of 8 times.

During OIG's meeting with the four Captains, the Ceasefire Captain stated, "If we can avoid a pursuit, we should. Specialized units have more control over avoiding pursuits. If they observe a vehicle associated with a felonious crime, they can follow the suspect for hours in an unmarked vehicle and wait until the driver exits the vehicle before attempting to apprehend the driver, which may prevent a pursuit from happening. Patrol officers do not have these options."

Air Support

Air support is a valuable tool in reducing the risk of collisions during vehicle pursuits. Air support allows pursuing officers to terminate the pursuit while air support tracks the subject vehicle, therefore reducing the risks associated with pursuits. In 2018, there were zero vehicle collisions during vehicle pursuits while air support was used. The request for air support was routinely made during vehicle pursuits. Unfortunately, air support was only used in about 9% of pursuits.

OPD flight crew staffing level is insufficient. There are multiple days of the week with no staffing at all for air support. On the days where there is staffing, the hours of coverage throughout the day are limited. There are multiple hours during the peak pursuit hours, 1400-0200, with no OPD air support. In one-third of the pursuits where air support was used, it was an outside agency's air support, such as Contra Costa County Sheriff's Department or CHP that was used during the vehicle pursuit.

The average duration of vehicle pursuits before OPD air support took over was just under 3 minutes, but when OPD had to rely on outside air support, the average duration of vehicle pursuits was just over 8.5 minutes before outside air support took over.

Pursuit Technologies

There are companies, like StarChase,²⁵ that offer systems designed to reduce the risks associated with vehicle pursuits. They have the potential to reduce the amount of time and distance spent pursuing a fleeing vehicle and can give officers a way to regain some control over how the pursuit events unfold.

StarChase uses a compressed-air launcher to fire a GPS tag onto the fleeing vehicle. The launcher is mounted behind the grill of a police vehicle. After the GPS tag attaches to the fleeing vehicle, officers can discontinue the pursuit and covertly monitor the route of the suspect. This allows officers to apprehend the suspect when

²⁵ StarChase provides GPS tagging and tracking technology solutions to public safety and government agencies worldwide. The company is a resource for agencies for managing high-risk events, surveillance tracking, real-time situational awareness, and day-to-day operations. The company's mission is to support law enforcement and the communities they protect with cutting-edge technology and training to mitigate loss of life and injury. (www.starchase.com/about.php. Retrieved August 28, 2019)

a more tactically advantageous opportunity presents itself. The GPS tag transmits the suspect vehicle location for a limited amount of time.

The department should consider equipping some patrol vehicles with the StarChase system. Officers who have a history of initiating pursuits, and who are assigned to patrol between the hours of 1400-0200 hours should be assigned to vehicles with one of these systems in place in order to maximize its use and availability.

Additional Observations

Pursuit Intervention Maneuver Techniques were used infrequently but were effective in stopping the suspect vehicle with minimal property damage and injuries.

Pursuit Intervention Maneuver Techniques are available to officers to regain some control over the outcome of pursuits. The most common, Pursuit Immobilization Technique (PIT), is a technique in which officers momentarily push the rear quarter panel of a pursued vehicle with the front quarter panel of their police vehicle to cause the pursued vehicle to rotate and come to a stop. The PIT maneuver may be utilized in any pursuit with the approval of the monitoring supervisor/commander.

Pursuit Immobilization Techniques were used in only 10 (10%) of the 105 pursuits in 2018. All collisions following a PIT were collisions with property. No uninvolved motorists were involved in a collision following a PIT. In contrast, a third-party motorist was involved in 19 (50%) of the 38 pursuit collisions. There was a total of 22 occupants in the suspect vehicles in which police officers used a PIT to subdue the vehicle, and 21 of them sustained no injuries. One person sustained a bruised leg.

Pursuit Immobilization Techniques require three police vehicles to perform the maneuver, unless there are exigent circumstances, per department policy²⁶. There were 47 pursuits that had at least three units, and a PIT was performed in only 10 (21%) of those pursuits. Fifty-five percent of all pursuits involved less than the three units required for a PIT. The duration of the average pursuit with a PIT was 7.3 minutes, all of which involved three units.

Since a PIT maneuver requires three units and can be an effective way of ending the pursuit under the right circumstances, the department should consider allowing three units in a pursuit without the need for supervisory authorization.

Current OPD pursuit policy only allows two units in a pursuit, and additional units must be requested and approved. From the review of pursuits in 2018, approval for a third unit was routinely given. The only thing that appeared to determine when the approval for a third unit was given depended on when the officer remembered to ask or when the sergeant remembered to authorize it. The only pursuits where a third unit was not authorized were during pursuits that concluded before a request could even be made.

Having three police units in a vehicle pursuit serves a tactical purpose because it is the preferred number of units to perform a PIT. The table below shows that the most likely unit to be involved in a vehicle pursuit collision is the #1 unit, and each additional unit is less likely to be involved in a vehicle pursuit collision than the previous unit.

²⁶ Training Bulletin III B.9, *Pursuit Intervention Maneuver Techniques* (dated 30 May 07)

Collisions by Position in Pursuit

	#1 Unit	#2 Unit	#3 Unit
Involved in a Pursuit	105	70	47
Involved in a Collision	5	2	1
Collision Rate	5%	3%	2%

Additionally, during interviews with the sergeants and officers, the consensus was that three police units should be allowed in a pursuit without seeking authorization. One sergeant described having three units in a pursuit as a tactical “absolute necessity.”

OBSERVATION #10

The OPD can benefit from capturing detailed pursuit data and producing a biannual or annual report to aid in its supervisors’ oversight of pursuits.

To conduct this review, the Lead Auditor researched valuable information about the characteristics of the Department’s vehicle pursuits. Information was captured related to vehicle pursuit collisions and Pursuit Immobilization Techniques, injuries, juveniles, resources, time of day, and distance and speed (see Appendix B). However, at this time, the OPD does not regularly report such information, diminishing supervisors’ ability to make informed decisions regarding pursuits based on data. During the course of the review, pursuit characteristics were analyzed along with the risk of collision and injury, as well as the likelihood of apprehending the suspect.

Time of Day

The most significant risk with pursuits is the potential for collisions and injuries. This risk increases with the presence of more vehicle and pedestrian traffic. For these reasons, pursuits between 2:00PM and 8:00PM are especially risky. Thirty-five percent of all pursuits occurred between these hours. Not only is pedestrian and vehicle traffic higher during these hours, but the duration of the pursuits during these hours was almost 20% longer than the average. Therefore, more pedestrian and vehicle traffic were being exposed to the risks of pursuits for a longer duration than pursuits during other hours of the day.

There were numerous distinct differences in pursuits between the hours of 2:00PM and 8:00PM versus 8:00PM and 2:00AM. There are extra vehicle and pedestrian traffic congesting the roadways between 2:00PM and 8:00PM, and relatively light vehicle and pedestrian traffic between 8:00PM and 2:00AM. The increased traffic during 2:00PM and 8:00PM appears to reduce the ability and/or willingness of the suspect to engage in riskier driving behavior. This is evident from the slower speeds and the lack of incidents of wrong-way driving during those hours. The slower speeds improve the pursuing unit’s ability to keep up with the suspect, which is evident by the increased distance and duration of the pursuits, and the decrease in terminations due to futility (distance too long or vehicle no longer in view). Between 2:00PM and 8:00PM, police vehicles engage in pursuits for a longer duration and terminate the pursuit at a lower rate compared to 8:00PM and 2:00AM. Additionally, there is a higher collision rate and a higher apprehension rate between 2:00PM and 8:00PM.

Speed

Most city streets in Oakland have a 25-mph speed limit. Average pursuit speeds on city streets were nearly double the speed limit. There was only a one mile per hour (MPH) difference (+2%) in average speed between pursuits with a collision and pursuits without a collision. It does not appear that speed, alone, was a significant

factor in whether there would be a collision in a pursuit. However, speed may be a factor in whether there was any injury in a pursuit. There was a +8 MPH difference (+15%) in speed between pursuits with any injury and pursuits without any injury.

Pursuit Duration

Suspects who fled from OPD officers were committed to not surrendering. Only four pursuits ended with the suspect giving up. Officers involved in pursuits, and sergeants and lieutenants monitoring pursuits, should not expect the suspect to give up and voluntarily stop the vehicle. Not only was it rare for a suspect to surrender, but the average duration of the pursuit before the suspect finally surrendered was long in comparison to most pursuits (13 minutes).

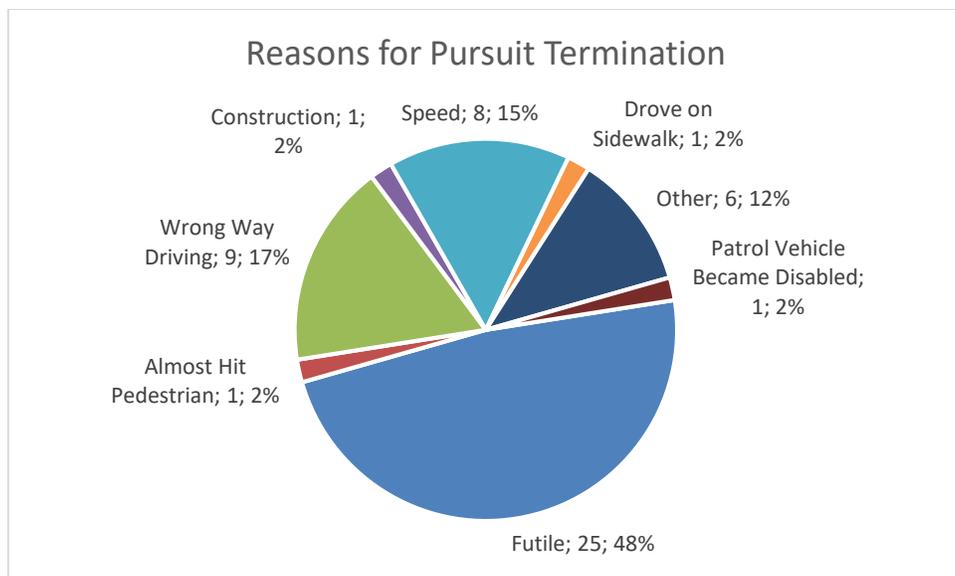
Pursuit Termination

Fifty-two of the 105 pursuits were terminated: 35 (67%) by a police officer(s); 13 (25%) by a sergeant; and 4 (8%) by a lieutenant. In addition, the Auditor noted 71% of the terminations occurred between 2:00PM and 2:00AM, and the reasons for termination documented in the respective police officers' pursuit reports were public safety and/or futility (distance too long or vehicle no longer in view), as shown in the table below.

Pursuit Termination Reason

Category	No.	Percentage
Public Safety 1400-2000 Hours	1	2%
Public Safety 2000-0200 Hours	16	31%
Futility 1400-2000 Hours	8	15%
Futility 2000-0200 Hours	12	23%

There were 20 pursuits terminated for public safety reasons and 25 because to futility. The auditor was unable to determine the reason for termination for seven pursuits. Two conditions, speed and wrong-way driving, dominated the terminations for public safety. Eight pursuits were terminated for speed, and nine pursuits were terminated for wrong-way driving. In the pursuits terminated for speed, the average speed was 66 MPH. The average reported maximum speed on the freeway was 100 MPH, and the average reported maximum speed on city streets was 84 MPH. The chart below shows the breakdown of reasons pursuits were terminated.



Suspect Apprehension

When a pursuit was not terminated, the apprehension rate was 94%. Pursuits between 2:00PM and 8:00PM were significantly more successful at apprehending the suspect than pursuits between 8:00PM and 2:00AM hours. There were 10 pursuit intervention maneuvers used, of which nine were PIT's and one a spike strip. The table below shows the various apprehension rates.

Suspect Apprehension in Pursuits

Category	Pursuits	Apprehended	Apprehension Rate
All Pursuits	105	52	50%
Non-Terminated Pursuits	53	50	94%
2:00PM – 8:00PM	37	25	68%
8:00PM – 2:00AM	32	17	35%
PIT or Spike Strip Used	12	12	100%

Additional pursuit characteristics are detailed in Appendix B.

OBSERVATION #11

Overall, the OPD's pursuit policy is equally or more restrictive than pursuit policies in other California police departments.

Pursuit policies for six large police departments in California were reviewed: San Francisco, Sacramento, Riverside, Fresno, San Jose, and Long Beach. Similar to Oakland, two of these agencies restrict pursuits to violent felonies (San Francisco and San Jose). The other agencies have less restrictive policies regarding pursuable offenses. Aside from San Francisco and Oakland, agencies authorize three or more units in a

pursuit without supervisory authorization. Oakland and San Francisco only allow two units. Two agencies prohibit the use of PITs, unless deadly force is justified (San Francisco and Long Beach).

The following table is a summary of pursuable offenses, authorized units, and PIT's for each agency.

Comparison of California Police Department Pursuit Policies

Police Department	Pursuable Offenses	Authorized Units	PIT's
San Francisco	Violent Felonies, or an articulable reasonable belief that the suspect needs to be apprehended immediately because of a risk to public safety	2 units, unless supervisory approval granted for additional units	PITs are considered a use of deadly force, and only allowed if authorized by a supervisor and there is a reasonable basis to believe that a substantial risk exists that the suspect will cause imminent death or serious bodily injury to the public/officers
Long Beach	Felonies, or the suspect appears to be so impaired that they may cause death or serious injury	No limit, supervisor authorized number of units	PITs are prohibited unless deadly force is justified
Fresno	Reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle	3, unless supervisory approval granted for additional units	Require Supervisor Approval
San Jose	When the violator is believed to be a violent felon who poses a significant, ongoing threat to public safety	3, unless supervisory approval granted for additional units	Allowed, but unable to determine if approval is required
Riverside	Reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle	4, unless supervisory approval granted for additional units	Require Supervisor Approval
Sacramento	No apparent restrictions	3, unless supervisory approval granted for additional units	Require Supervisor Approval
Oakland	Violent Felonies	2 units, unless supervisory approval granted for additional units	Require Supervisor Approval

In addition, the International Association of Chiefs of Police (IACP) has a model pursuit policy that provides guidance for police agencies. The IACP policy allows for pursuits “only if the officer has reasonable belief that the suspect, if allowed to flee, would present a danger to human life or cause serious injury. In general, pursuits for minor violations are discouraged.” It only allows for two units, unless the supervisor approves additional units to fit the situation. It also requires supervisory approval prior to the use of intervention tactics.

RECOMMENDATIONS

OIG Observations	OIG Recommendations
<p><u>Observation #2</u> There were 13 more officers (26%) who initiated pursuits in 2018 compared to 2017. Three officers respectively initiated 4, 10 and 11 more pursuits in 2018 compared to 2017, which accounted for 55% of the increase in total pursuits.</p>	<p><u>Recommendation #1</u> The Department should closely monitor pursuit activity of officers, especially those who have a high number of pursuits, and commanders and chiefs should have access to regular comprehensive reports about the pursuits to assist them in monitoring risk (including data such as collisions, injuries, distance, time, compliance, apprehensions, etc.).</p>
<p><u>Observation #3</u> The characteristics of strong-arm robberies were different than robberies involving a firearm.</p>	<p><u>Recommendation #2</u> The Department should assess the risks and benefits of pursuing vehicles associated with strong-arm robberies potentially committed by juveniles, and potentially provide additional guidance on pursuing vehicles under these circumstances.</p>
<p><u>Observation #6</u> While the current pursuit board process includes a comprehensive review of pursuit compliance, tactics and safety, the OPD policies regarding pursuit boards do not sufficiently address the board responsibilities and procedures.</p>	<p><u>Recommendation #3</u> The Department should update DGO J-4 and DGO G-4 to include additional detail on the pursuit board members and procedures, and to ensure they align with current pursuit board practices.</p> <p><u>Recommendation #4</u> The notification process, acknowledgement of right and obligations form and partial waiver form used for pursuit boards should be reviewed to ensure clarity about officers’ POBAR rights, potential discipline and representation.</p>
<p><u>Observation #7</u> There were two pursuits that resulted in severe injuries, but only one had a Fatal Accident Team callout.</p>	<p><u>Recommendation #5</u> The Department should assess what types of severe injuries resulting from a pursuit-related collision warrant a call-out and what type of call-out is required (Fatal Accident Team, Internal Affairs Division, etc.).</p>

OIG Observations	OIG Recommendations
<p><u>Observation #9</u> The Department’s few tools to reduce the risk of pursuits (i.e., air support and surveillance) are limited in their availability.</p>	<p><u>Recommendation #6</u> The Department should explore increasing the hours of air support during time periods when pursuits are most likely to occur (2:00PM to 2:00AM).</p> <p><u>Recommendation #7</u> The Department should consider allowing three units, without supervisory approval.</p> <p><u>Recommendation #8</u> The Department should explore additional technologies to mitigate the risk of pursuits, such as StarChase.</p>
<p><u>Observation #10</u> The OPD can benefit from capturing detailed pursuit data and producing a quarterly or annual report to aid in its supervisors’ oversight of pursuits.</p>	<p><u>Recommendation #9</u> The Department should require a biannual or annual pursuit report that includes important pursuit data to arm supervisors and commanders with information they can use to understand and mitigate risk (e.g., time of day, speed, duration, technologies used, collisions, injuries and apprehensions).</p>

CONCLUSION

The Department has recognized the risks associated with pursuits by implementing a more restrictive policy and developing a more robust pursuit board process. Although pursuits increased dramatically between 2017 and 2018, there has been a notable decline in 2019 (22% decrease as of November 2019). Although the highest pursuing officer in 2018 is on track to have about the same number of pursuits in 2019, the other top four officers with the highest number of pursuits as passenger or driver have had far fewer pursuits in 2019 (as of mid-November), only 5 compared to 26 in 2018 as passenger or driver in the primary unit. The Department is also working to reduce risk by updating the pursuit policy (DGO J-4) and purchasing Starchase pursuit management technology for 30 patrol cars. Additionally, it is exploring the feasibility of outfitting all patrol cars with cameras, which would capture better video of pursuits.

Appendix A: Detailed Methodology

Objective 1

To identify factors that contributed to the 75 percent increase in vehicle pursuits, the Lead Auditor:

- Reviewed PDRD footage for all officers involved in each vehicle pursuit;
- Listened to the dispatcher recordings to capture information (i.e., the actual pursuit initiation, request for authorization, speeds, conditions, etc.) that may not have been captured on an officer’s PDRD; and
- Read the associated vehicle pursuit report (a Crime/Supplement Report documenting the pursuit), if necessary, to capture whether the pursuit was intelligence led. If the report indicated the pursuit was initiated because the officer recognized the vehicle due to information contained in the various forms of communication, the Auditor recorded it as an intelligence-led pursuit. If the report indicated the pursuit was initiated due to a dispatched call for service, or due to inferences made from a police officer’s observations, but not due to specific information of the vehicle, the Auditor recorded the pursuit as not being intelligence-led.
- Interviewed four Area Commanders, six officers and three sergeants about the increase in pursuits.

Objective 2

To determine whether 2018 investigated vehicle pursuits were within policy, the Lead Auditor reviewed each vehicle pursuit packet, seeking a documented *Supervisor Summary* that indicated whether the pursuit was in or out of compliance.

Objective 3

To evaluate the OPD’s supervision and review of vehicle pursuits, the Contributing Auditor reviewed the following data associated with the 22 vehicle pursuits:

- Crime/Supplemental Reports;
- Body worn cameras of all involved officers;
- Computer Aided Dispatch (CAD) purges;
- Notes in the vehicle pursuit records in the OPD’s PRIME²⁷ system; and
- J-4 Reports when available.

Using the above data for each of the vehicle pursuits, the Auditor based his evaluation of OPD’s supervision and review of vehicle pursuits upon the following criteria:

No.	Criteria
1	Vehicle pursuit was initiated in accordance with policy.
2	Vehicle pursuit was terminated when, after evaluating the risk factors and the safety of the public and officers, the risks outweighed the benefits of immediately apprehending fleeing suspects.
3	Primary unit notified the supervisor and received authorization to pursue the fleeing vehicle.
4	Primary unit advised the OPD’s Communications Division of the reason for the pursuit; the description of the fleeing vehicle; the number and description of occupants, if known; and continually updated the Communications Division of the location of travel, direction, traffic conditions, and speeds.
5	Three or more units in the vehicle pursuit were approved by a supervisor or commander.

²⁷ Ibid. pgs. 16-22

6	A supervisor or commander monitored and maintained control of the pursuit via clear directives and communication.
7	Police officer vehicles' lights and sirens were activated from beginning to end of the pursuit.
8	Upon termination of pursuit, lights and sirens were deactivated and the police officer's vehicle was turned off from the pursued vehicle's direction and pulled over to the curb.
9	When a PIM was used, it was properly authorized.
10	A supervisor responded to the termination point of the pursuit.
11	The incident report properly and thoroughly documented the actions of the officers.
12	Each officer involved in the vehicle pursuit wrote a Supplemental Report.
13	A supervisor approved each officer's Supplemental Report.
14	Police officers' body worn cameras were properly utilized during the entire incident. If not, supervisor addressed issue.
15	Tactical issues were identified and addressed by a supervisor or commander. If not, OPD addressed at some level.

If the OPD scored 90 percent or above in any category, the Auditor deemed the OPD's supervision and review in that category satisfactory.

The contributing auditor also observed a pursuit board and interviewed the pursuit board chair.

Objective 4

To explore ways to mitigate the risks associated with vehicle pursuits, the Lead Auditor conducted the following research:

1. Compared pursuit policies from six similar-sized law enforcement agencies.
 - San Francisco Police Department;
 - Riverside Police Department;
 - Fresno Police Department;
 - Long Beach Police Department;
 - Sacramento Police Department; and
 - San Jose Police Department.
2. Evaluated multiple pursuit characteristics, such as speed, pursuit duration, time of day, apprehensions, collisions, and injuries.
3. Evaluated the use of tools to reduce the risk of pursuits, such as air support, pursuit intervention maneuvers, surveillance, and other technologies.
4. Attended a StarChase Pursuit Management Technology presentation to see how their technology mitigates the risk of pursuits.

Appendix B: Additional Characteristics of OPD Pursuits

Pursuit Distance and Duration

	Average Distance (in miles)	Percent Deviation from Average Distance	Average Duration (in minutes)	Percent Deviation from Average Time
All Pursuits	4.7	-	4.8	-
One Unit Pursuit	1.8	-62%	1.8	-63%
Two Unit Pursuit	3.4	-28%	3.6	-25%
Three or More Unit Pursuit	7.5	60%	7.5	56%
Pursuits on City Streets Only	2.3	-51%	2.9	-40%
Pursuits with Freeway Travel	9.0	91%	8.2	71%
Pursuits between 1400-1900 hours	5.6	19%	5.7	19%
Pursuits between 2000-0200 hours	4.3	-9%	4.3	-10%
Pursuits with a PIT	7	49%	7.3	52%
Pursuits with Air Support	6	28%	6.1	27%
Pursuits with a Collision	4.9	4%	5.1	6%
Pursuits without a Collision	4.5	-4%	4.6	-4%
Pursuits with collisions and any Injury	4.6	-2%	4	-17%
Pursuits with collisions and without any Injury	4.7	0%	4.9	2%

Pursuit Speeds

	Average Speed (MPH)	% deviation from average speed	Average Maximum Freeway Speed (MPH)	% deviation from average max fwy speed	Average Maximum City Street Speed (MPH)	% deviation from average max city speed
All Pursuits	56	-	88	-	59	-
Pursuits on City Streets Only	49	-13%	-	-	59	0%
Pursuits between 1400-1900 Hours	56	0%	82	-7%	60	2%
Pursuits between 2000-0200 Hours	58	4%	91	3%	60	2%
Pursuits with any Collision	57	2%	90	2%	58	-2%
Pursuits without any Collision	56	0%	87	-1%	60	2%
Pursuits with any Injury	63	13%	93	6%	62	5%
Pursuits without any Injury	55	-2%	87	-1%	59	0%

Time of Day

	2:00PM-8:00PM	8:00PM-2:00AM
Average Distance	5.6 miles	4.3 miles
Average Duration	5.7 minutes	4.3 minutes
Average Speed	58 MPH	60 MPH
Average Max City Speed	60 MPH	60 MPH
Average Max Freeway Speed	82 MPH	91 MPH
Incidents of Suspect Driving the Wrong-Way	0	8
Termination Rate	27%	65%
Collision Rate	54%	29%
Apprehension Rate	68%	35%