Oakland Police Department
Office of the Inspector General

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1st Quarterly
Progress Report
January-March, 2019

Oakland Police Department
Office of Inspector General
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Contents

Introduction

Included in the Office of Inspector General's (OIG) 2019 *1st Quarterly Progress Report* are the *2019 Search Warrants Compliance Audit* and the third follow-up of *OIG's Officer Integrity Trends and Other Critical Observations Regarding Hiring and Training Practices Report*.

The Department's search warrant policy (Training Bulletin I-F, *Search Warrants*, effective date 22 Mar 16) requires OIG to conduct an annual audit of search warrants and associated documents. Due to staffing and competing priorities, there was no search warrant audit completed in 2018. The 2017 audit found overall compliance with the completion and submission of search warrant forms. In this 2019 search warrant audit, the auditors focused on policy language and risk assessments/special operations plans, in addition to search warrant documentation. While search warrant forms are being completed and submitted properly, the audit found improvement needed in policy regarding risk assessments and operations plans.

The OIG conducted a third follow-up of *OIG's Officer Integrity Trends and Other Critical Observations Regarding Hiring and Training Practices Report* to determine the status of the four outstanding recommendations. The original report, published in December 2016, included 11 recommendations for improved internal controls over policies and practices, all of which were accepted by the Department. The Follow-Up review found the following:

- OPD has revised Departmental General Order, DGO B-13, *Basic Academy Standards* and the Department's Academy Manual (previously known as the "Police Officer Trainee Manual") to reflect the current Police Officer Trainee discipline process and the role of peer evaluations in that process; DGO B-13 is in the review process.
- The Department launched a new software application in the fall of 2018 for its Personnel Division, *Oakland Police Department Human Resource Management* (*OPD HRM*). Data fields were added to the system allowing the Department to more easily track employee separation.
- On March 23, 2019, the Department launched a new software application called METR, which is now the central tracking system for Department training and Academy data.
- Lastly, the Department has drafted a revision to Department General Order D-11, *Recruiting and Background Investigation Policy and Procedures*. The draft is in the review stage, but it does state that POST certified training is a requirement for those performing background investigations that are not assigned to the R&B Unit. Additionally, background investigators are required to have investigative experience, if they have never previously worked within the R&B Unit.

Respectfully,

Kristin Burgess-Medeiros
Acting Inspector General

2019 Search Warrants Compliance Audit

BY: Lead Auditor Charlotte Hines and Contributing Auditor Rebecca Johnson

Objectives

1) Determine whether investigators are submitting all required search warrant forms to the Criminal Investigation Division Search Warrant Coordinator.
2) Verify all evidence recorded on the *Search Warrant Inventory Sheet* is listed on the associated Property Record and, if applicable, the Drug Analysis Unit *Daily Summary of Drug Cases Received Log* sheet.
3) Confirm all officers authoring and reviewing search warrants completed the required online, three-hour course, offered via the POST Learning Portal website, entitled Search Warrant Fundamentals.
4) Verify the Records Division's receipt of a *Risk Assessment Overview* and/or an *Operations Plan* form for each search warrant involving the search of a residence (house or apartment).

Key Strengths

- ✕ Of the 85 search warrants reviewed, the respective investigators submitted all required forms to the CID Search Warrant Coordinator for 84 of them (99%).
- ✕ Of the 18 search warrants reviewed to verify all evidence recorded on the Search Warrant Inventory Sheet is on the associated PEU Property Record, the Lead Auditor reconciled 17.
- ✕ Upon reviewing the Search Warrant Fundamentals (WEB) Course Attendance Report, the Lead Auditor confirmed that 117 of the 125 officers (94%) completed the course.

Key Weaknesses

- ✕ The Contributing Auditor was able to verify the Records Division's receipt of a Risk Assessment Overview and/or an Operations Plan form for only two of 13 search warrants involving the search of a residence.

Key Recommendations

- The OIG made five recommendations: three related to policy issues; one related to training; and one related to the Search Warrant Inventory form. For details, review the OIG *Findings and Recommendations Section* at the end of this audit (pages 22-23).

References

- Training Bulletin IV-O, *Investigative Procedure for Search Warrant Service,* dated August 20, 2003
- Training Bulletin III-Q, *Risk Assessment Overview & Operations Plan*, dated July 19, 2000
- Training Bulletin I-F, *Search Warrants*, dated March 22, 2016
- Training Bulletin IV-A.1, *Packaging and Preserving Physical Evidence*, dated September 26, 1984
- Report Writing Manual O-1, *Risk Assessment Overview,* dated May 26, 2015
- Report Writing Manual O-2, *Operations Plan,* dated May 26, 2015
- Report Writing Manual O-1, Risk Assessment Overview, dated May 26, 2015

Overview

The Office of Inspector General conducted its annual compliance audit of search warrants as mandated in Departmental Training Bulletin I-F, *Search Warrants.* The audit had four objectives. Determine whether investigators are submitting all required search warrant forms to the Criminal Investigation Division (CID) Search Warrant Coordinator. Verify all evidence recorded on the Search Warrant Inventory Sheet is listed on the associated Property Record and, if applicable, the Drug Analysis Unit *Daily Summary of Drug Cases Received Log*. Confirm all officers authoring and reviewing search warrants completed the required online, three-hour course, offered via the POST Learning Portable website, entitled *Search Warrant Fundamentals*. Verify the Records Division's receipt of a *Risk Assessment Overview* and/or an *Operations Plan* form for each search warrant involving the search of a residence (house or apartment).

The audit resulted in the following findings:

- Upon reviewing 85 search warrants, the Lead Auditor determined that 84 (99%) of the investigators submitted all required search warrant forms [the original Search Warrant Approval Tracking Sheet, a copy of the Search Warrant, a copy of the Search Warrant Affidavit, and a copy of the Search Warrant Inventory Sheet(s)] to the CID Search Warrant Coordinator.
- Of the 85 search warrants reviewed, 18 of them involved the search of a residence and OIG used this population to verify all evidence recorded on the Search Warrant Inventory Sheet was on the associated Property Record. There were only three search warrants with discrepancies between items listed on the Search Warrant Inventory Sheets and the Property Records. However, the Lead Auditor was able to reconcile the discrepancies related to two of them and OIG reported the last issue to a supervisor for further handling.
- There were 125 (59 authors, 40 supervisors, and 26 commanders) officers who authored and reviewed search warrants. Upon reviewing the Search Warrant Fundamental (WEB) Course Attendance Report, received from the Training Division, the Lead Auditor confirmed that 117 (94%) of them completed the required online, three-hour course, offered via the POST Learning Portal website. However, six of the seven remaining authors did have some type of search warrant training and only one of them had no training. In addition, all but one of OPD's search warrant reviewers (supervisors and commanders) has taken the mandatory training.
- Lastly, the Contributing Auditor was able to verify the Records Division's receipt of a Risk Assessment Overview and/or an Operations Plan form for only two of 13 search warrants involving the search of a residence.

Background

The *Fourth Amendment* of the United States Constitution prohibits unreasonable searches and seizures. One mechanism used by law enforcement to assure that a search is reasonable is a search warrant. It is an order in writing, in the name of the people, signed by a magistrate, directed to a peace officer,[1]

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[1] Training Bulletin I-F, *Search Warrants*, dated March 22, 2016, pg. 1.

authorizing him/her to seize evidence (property or things) taken by a suspect while committing a crime or used by a suspect to commit a crime.[2]

Most Current Compliance Reviews of Search Warrants
In 2017, the OIG conducted an audit to ensure all required search warrant forms were correctly completed and submitted, and to verify all items recorded on the Search Warrant Inventory Sheet were on the Property Record. The Lead Auditor selected and reviewed 83 search warrants from a total audit population of 618 search warrants executed in 2016. The audit indicated that all required forms were completed and submitted in a timely manner. However, three of the 16 cases reviewed had discrepancies when comparing descriptions or lists of seized items found on the Search Warrant Inventory Sheets, offense reports, and property records. Ultimately, the audit indicated that the OPD did not need to make changes to its search warrant practices and therefore OIG made no recommendations for implementation.

OPD's Practice of Obtaining and Documenting a Search Warrant
The OIG's Inspector General, Audit Unit Supervisor, and Lead Auditor met with the OPD's Bureau of Investigations Deputy Chief and Search Warrant Coordinator and the Training Division Captain, inquiring about OPD's documentation related to the search warrant process in policy (Training Bulletin I-F, *Search Warrants*, dated March 22, 2016). The Deputy Chief and Captain summarized the OPD's practice as follows:

1. Authoring *Search Warrant Documents*
   When an affiant[3] has probable cause to believe a crime has been committed and/or that certain property has a connection with a crime and is currently present at a specified location, he/she must author the following forms to seize the property or evidence:

   - A *Search Warrant Affidavit*—document states the facts that indicate there is probable cause to believe a crime has been committed, and certain property or evidence of that crime is present at the location to be searched;
   - A *Search Warrant*—document outlines people, places, and/or vehicles to be searched and evidence to be seized;
   - A *Search Warrant Sealing Order (as requested by the affiant)*– document restricts access to the Search Warrant Affidavit to protect a public interest (i.e. a confidential informant, official information, etc).

2. Author Obtains Approval to Submit Search Warrant Documentation to Magistrate

   Once the affiant authors the *Search Warrant* Affidavit and *Search Warrant*, and, if applicable a *Search Warrant Sealing Order*, he/she must complete a *Search Warrant Approval Tracking Sheet*

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[2] Training Bulletin IV-O, *Investigative Procedure for Search Warrant Service*, pg. 2.
[3]Training Bulletin I-F, pg. 1: An affiant is the person who authors the search warrant affidavit and who declares under penalty of perjury that the information contained in the affidavit, based upon his/her personal knowledge, and including all incorporated documents, is true.

(TF-3343, Revised April 2016), and submit the form along with the completed search warrant documentation to a supervisor and commander for review. The Auditor noted there are times when the affiant is required to attach additional documentation to facilitate the review:

- If the affiant states in the *Search Warrant Affidavit* that drugs (i.e., cocaine, methamphetamine, heroin, etc.) were tested, he/she is required to submit a *Chemical Analysis Report* (TF-708), acquired from the Criminalistics Division,[4,5] along with the search warrant documentation.
- If a reviewer(s) has any concerns regarding information written in the search warrant documentation, the affiant may be required to submit additional relative documents (i.e., Crime Reports, photographs, and/or diagrams) as supporting evidence to justify the need for a search warrant.

When the supervisor and commander deem the search warrant documentation complete and accurate, they document their review and approval of the search warrant and affidavit on the *Search Warrant Approval Tracking Sheet*. Subsequently, the affiant is permitted to submit the *Search Warrant* and *Search Warrant Affidavit*, and, if applicable, *the Search Warrant Sealing Order* and sealed document, to a magistrate for review and signature.

3. <u>Documentation of the Search Warrant Service</u>
   An officer who is present during the execution of the search warrant must complete a *Search Warrant Inventory* form (TF-3079),[6] a four-ply form that documents the following information:

- Search date, day, starting and ending time, and report number;
- Officers/witnesses present;
- Name of person served, address of search location, and area(s) searched;
- Description of item and location found; and
- Signature and serial number of officer who completed the form and the date.

Additional Documentation

- If the *Search Warrant* is authored, approved, and served the same day, it is necessary to document the search warrant service in the Crime Report.
- In all other instances, except those involving the Homicide Unit, if the documentation is not located in a Crime Report, the information

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[4] Training Bulletin IF.01 *Search Warrants* dated March 22, 2016 Pg. 4
[5] OPD's onsite laboratory in which matter (i.e., drugs, fingerprints, firearms, etc.), recovered from crime scenes, is analyzed.
[6] Located in OPD's Report Writing Room. Upon reviewing the form, the Auditor noted the distribution list: White--Court Clerk; Yellow—Person Served; Pink—Records Section; and Golden Rod—Investigator.

about the search is in the investigator's (affiant) case notes in the
Law Records Management Systems.[7]

- In Homicide cases, the documentation is in the investigator's case file.

4. <u>Search Warrant Records Retention</u>

Upon completion of the search warrant service, the primary investigator (affiant) forwards the search warrant forms cited below to the Criminal Investigation Division's Commander and Search Warrant Coordinator for review:

- The original Search Warrant Approval Tracking Sheet (TF-3343)
- A copy of the search warrant
- A copy of the affidavit
- A copy of the Search Warrant Inventory (TF-3079)
- A copy of the Search Warrant Inventory and Return Continuation (TF-3079-2), if necessary

Lastly, the Search Warrant Coordinator reviews the search warrant forms for completeness and accuracy, and signs and dates the forms before forwarding the forms to the Commander. The Commander also reviews the forms to ensure compliance with policy before signing and dating the form. Once determined to be in compliance, the Coordinator scans the search warrant forms into a Portable Document Format (PDF), places the search warrant PDF in an electronic folder.

OPD POLICIES

Itemizing and Submitting Evidence to the Property and Evidence Unit
Every officer is responsible for collecting and preserving the evidence found during preliminary investigations when an Evidence Technician is not present. When submitting evidence to the Property and Evidence Unit, OPD requires officers to package items as follows[8]:

- Package each item separately in a sealed container labeled with a description of the item -- mark each with a unique number and use the same number to identify the item on its container in your technician report, and on the **Property Record**. If the item is too small or fragile to mark, place it in a sealed container and mark the container.
- Package individually wrapped, numbered and labeled items of a similar type together in one outer container (e.g., blood evidence in one outer bag, firearms evidence in another). The officer can tag the container with one **evidence tag** listing all the items inside. It is necessary to seal only the inner containers.
- List each item separately on the **Property Record** and provide a brief description of it (e.g., the number used to describe the item on your report, and the location of collection).

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[7] Information Bulletin, Criminal and Information Databases, 16 Sep 14, pg. 1
This database stores information related to police reports; arrests; field contacts; and supplemental reports.
[8] Training Bulletin A.01, *Packaging and Preserving Physical Evidence*, September 26, 1984, pgs. 2-3,and 7.

- When submitting clothing belonging to several different individuals, indicate who the owners of the clothing are on the **evidence tag** and **Property Record**.
- When collecting evidence samples, comparison standards, and controls, indicate clearly on the label the type, and keep separate. Do not combine in common containers. Package evidence and standards separately so they cannot contaminate each other.
- Always package perishable items separately from other evidence. If submitting perishable evidence to the Property Section, mark the container and the **Property Record** "FREEZE" or "REFRIGERATE" as appropriate.
- Drugs: Package small items sealed in plastic bags containing labels identifying their source. Package items collected from different locations and/or different suspects separately. Place all items in a narcotics evidence envelope, seal with clasps, and deliver to narcotics drop box outside the Criminalistics Section. Items too large to go into box can be placed temporarily in the Property and Evidence Unit until the [Criminalistics Section] is open.

Search Warrant Training
The OPD requires all police officers, regardless of rank, to complete an online, three-hour course, offered via the POST[9] Learning Portal website, entitled *Search Warrant Fundamentals*. [10] The course teaches officers how to get started writing a search warrant; the parts of an affidavit; and what happens after the affiant has written the search warrant and it was signed by a magistrate. The course also provides scenario-based interactions to ensure officers have opportunities to practice with location descriptions, writing a statement of expertise, and recognizing a complete statement of probable cause.[11]

In addition, OPD requires its CID investigators (affiants) to attend a *Basic Search Warrant* Course within 30 months of their transfer to the CID.[12] To meet this mandate, an investigator usually attends a course taught by the OPD, which is a 40-hour course, entitled *Basic Search Warrant and Informant Management*. Some of the topics investigators learn are the advantages of search warrants, how to format a search warrant, obtaining authorization from a magistrate, residential search warrants, service of a search warrant, search warrants for cellular telephones and/or cellular telephone providers, and court orders.[13]

Risk Assessment Overview and *Operations Plan* **Forms**
Serving a search warrant involving the search of a residence (house or an apartment) is a high-risk operation because police officers do not know what to expect upon approaching the property. An entry team might have gunshots fired at them. The suspect might barricade him/herself inside a room. There might be hostages. There might be one or more vicious animals on the property. Because of potential harm or injury to suspects, citizens, employees, and/or police officers during these operations, the OPD requires the completion of two forms, a *Risk Assessment Overview* and an *Operations Plan*, prior to

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[9] The Commission on Peace Officer Standards and Training (POST), established by the Legislature in 1959, sets minimum selection and training standards for California law enforcement. (www.post.ca.gov/About-Us)
[10] Training Bulletin I-F, pg. 8.
[11] Multimedia Courses. *Search Warrant Fundamentals Web*. POST, 22 Jul. 2019, www.catalog.post.ca.gov/MultiMedia.aspx.
[12] Criminal Investigation Division Policy and Procedures Manual, Policy 13-05, *Investigative Training Program*, effective December 19, 2016.
[13] Lesson Plan provided by OPD's Training Division.

serving the search warrant. An officer uses the forms to document his/her assessment of the overall risk of the operation and the personnel and resources required to execute the warrant in a safe manner.[14]

Risk Assessment Overview Form
OPD requires the primary investigator to conduct various assessments and document them on a *Risk Assessment Overview* form.[15] Below are some of the categories on the form:

- Suspect—document his/her name, criminal history, mental stability, etc.
- Weapons—document whether the suspect is known or suspected to have in his/her possession any weapons.
- Site—document whether there are any persons (i.e. relatives, friends, etc.) known or suspected of being on site or barriers such as thick brush, barricaded doors, booby traps, security doors, surveillance devices, etc.
- Time—document time of the operation.[16]

In addition to completing the form, the [primary] investigator has to contact the appropriate command officer to arrange the resources and equipment needed to serve the search warrant. The supervisor overseeing the search warrant service has to review and sign the completed *Risk Assessment Overview* form. Lastly, the OPD requires [a copy of] the form be part of the final case packet,[17] and the original be retained in the Records Division.[18]

The Contributing Auditor notes that the OPD does make one exemption in the completion of the *Risk Assessment Overview* form: In instances requiring an immediate response, limited time **may not** allow officers to prepare the form. However, the OPD does remind its officers that Department policy requires they conduct all operations in accordance with the law and with respect for the civil rights and dignity of all persons and that safety of the public and Department personnel takes precedence over the apprehension of wanted persons or the recovery of evidence.[19]

Operations Plan Form
The OPD requires the supervisor overseeing the search warrant service to document, in detail, the execution of the search warrant on an *Operations Plan* form.[20] Some of the information documented on the form are as follows:

- Situation—includes a description of the location, dogs, suspect information, other persons, weapons, suspect vehicle, etc.
- Mission—a statement of goals and objectives of the specific operation.
- Execution—describe in detail the planned execution of operation. This section includes a list of undercover personnel and/or the tactical operations team; contingency plans, rules of

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[14] Training Bulletin IV-O, pg. 3
[15] Ibid. pg. 3.
[16] Report Writing Manual O-1, *Risk Assessment Overview* (TF-3115), pgs. 1-3.
[17] Training Bulletin IV-O, pg. 4
[18] Report Writing Manual O-1, pg. 4.
[19] Training Bulletin III-Q, Risk Assessment and Operations Plan, dated July 19, 2000, pg. 1.
[20] Ibid. pg. 4.

  engagement; the approach plan; the entry plan; the search plan; nearest medical facility/route, etc.
- Administration and Logistics, if necessary.
- Communications and Control—planners must confer with the Communications Division prior to the operation to secure a radio channel and the services of a dispatcher, if needed.
- After-Action Report.

Subsequently, OPD requires the primary investigator, using the *Operations Plan*, to brief all participating members about the search warrant service and understand their role in serving the warrant; all necessary resources available to serve the warrant; and a fallback position exists if circumstances make it necessary. The supervisor of the team executing the warrant is also present at the briefing. The OPD requires [a copy of] the *Operations Plan* be part of the final case packet,[21] and the [original] be retained in the Records Division.[22]

Methodology

1. The Lead Auditor requested and obtained, via the OPD's Search Warrant Coordinator, access to the search warrant database, an electronic file that included all search warrants processed during the 2018 calendar year. There were 753 search warrants completed January through December 18, 2018, and a sample of 85 search warrants was reviewed for this audit. The auditor created a spreadsheet detailing the results of the review of each case file.

2. The OIG's Commander, Audit Unit Supervisor, and Lead Auditor conducted interviews to gain information from those persons that have direct experience with obtaining, executing and reviewing search warrants (*see list below*).

Unit	Reviewer
Special Resources Section III	Supervisor
General Crimes Unit	Supervisor
Ceasefire Division	Supervisor
Criminal Investigations Division (CID)	Supervisor
Homicide Unit	Supervisor
Homicide Unit	Commander
Patrol	Commander

  The OIG staff asked each interviewee a series of questions related to their reviewing processes; expectations of the search warrant authors; training requirements; and specific knowledge of the overall search warrant process.

3. To determine whether investigators are submitting all required search warrant forms to the CID Coordinator, the Lead Auditor sought the following documentation in each search warrant PDF:

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[21] Training Bulletin IV-O, pgs. 4-5
[22] Report Writing Manual O-2, pg. 4

- Search Warrant;
- Search Warrant Affidavit;
- Search Warrant Inventory Sheets (Forms TF-3079 and TF-3079-2); and
- Search Warrant Approval Tracking Sheet (Form TF-3343)

If a search warrant PDF included all required forms, the Lead Auditor considered it compliant with policy. If the search warrant PDF was missing one or more documents, the Lead Auditor considered it noncompliant and noted each deficiency.

4. To verify all evidence recorded on the Search Warrant Inventory Sheet is listed on the associated PEU Property Record and, if applicable, the Drug Analysis Unit's *Daily Summary of Drug Cases Received Log*[23] sheet, the Lead Auditor used a four prong test:

   a) The auditor requested the corresponding Property Records from the Property and Evidence Unit (PEU) and, if applicable, the Drug Analysis Unit's *Daily Summary of Drug Cases Received Log.*

   b) Upon receipt, the Lead Auditor compared the evidence listed on the *Search Warrant Inventory Sheet(s)* to the evidence listed on the corresponding search warrant's PEU *Property Record* and/or the Drug Analysis Unit's *Daily Summary of Drug Cases Received Log*.

   c) If there were any differences in documented evidence, the Lead Auditor reviewed the Crime/Supplemental Report(s) associated with the respective search warrant in order to reconcile the differences.

   d) Lastly, the Lead Auditor sought the authorization of each piece of seized evidence on the *Search Warrant Inventory Sheet(s)* in the respective search warrant. If a PEU Property Record documented additional evidence seized during a search, but not authorized in the associated search warrant, the Lead Auditor reviewed the associated Crime/Supplemental Report(s) to validate the seizure of the evidence during the search.

5. To confirm all officers authoring and reviewing search warrants completed the required online, three-hour course, offered via the POST Learning Portal website, entitled Search Warrant Fundamentals, the Lead Auditor requested from the Training Division a *POST Search Warrant Fundamentals (WEB) Course Attendance Report* with the names of officers who took the course from January 1, 2010 to June 30, 2019. If an officer's name was not on the report, the Lead Auditor reviewed his/her Training Management System[24] (TMS) records to determine if he/she had completed any type of search warrant training.

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[23] Used to document any drugs turned in as evidence if the Property and Evidence Unit is closed or the evidence is too large for the PEU to intake.
[24] An electronic system used by the OPD to track the type of training and number of hours its employees attend annually.

6. To verify the Records Division's receipt of a *Risk Assessment Overview* and/or an *Operations Plan* form for each search warrant involving the search of a residence (house or apartment), a two-pronged test was used:

   a) The Contributing Auditor reviewed Crime/Supplemental Reports associated to each search warrant to determine whether circumstances existed that met OPD's one exemption to the completion of the *Risk Assessment Overview* form. For an incident to be considered as one that required an immediate response, and not enough time to allow officers to prepare the form, the auditor sought documentation to substantiate the following:

      - First, the suspect was apprehended;
      - Second, the search warrant was written by an OPD investigator and authorized by a magistrate;
      - Third, the resident was searched;
      - Lastly, all of the above took place in a short amount of time (within hours).

      If the incident met the exemption threshold, no *Risk Assessment Overview* [or *Operations Plan]* was required.

   b) For all non-exempt incidents, the Contributing Auditor sought the forms in the Records Division's electronic document storage system, Intact Web Smart by InfoDynamics, Inc., and the respective search warrant's final case packet.

Population/Sample

Objective 1

Submission of Required Search Warrant Forms to CID Search Warrant Coordinator
Various units throughout the OPD served search warrants (*see Table I below*).

TABLE 1: 2018 Search Warrants served

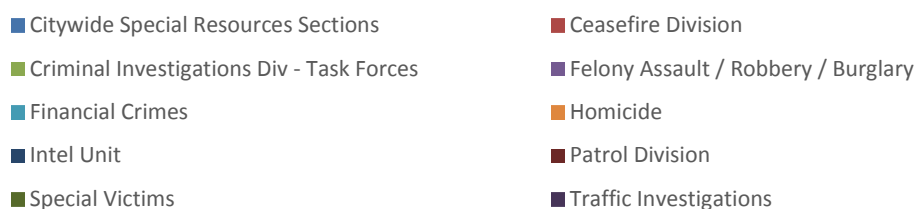| UNIT	# of Search Warrants Served
Citywide Special Resources Sections	81
Ceasefire Division	94
Criminal Investigations Division Task Forces	34
Felony Assault / Robbery / Burglary	150
Financial Crimes	9
Homicide	145
Intel Unit	3
Patrol Division	121
Special Victims	48

Traffic Investigations	68
Grand Count	**753**

Using a one-tail test to achieve a 95% confidence level with an error rate of +/- 4%, the Lead Auditor selected a sample of 85 search warrants and stratified the sample to ensure the sample included search warrants from each of the units in the total population (See Table 2 below). Table 2 shows the stratified search warrant sample numbers/percentages by unit.

TABLE 2: 2018 Search Warrant Sample Detail

Unit	# of Warrants	% of Sample
Citywide Special Resources Sections	9	11%
Ceasefire Division	10	12%
Criminal Investigations Division (Task Forces)	4	5%
Felony Assault / Robbery / Burglary	17	20%
Financial Crimes	1	1%
Homicide	16	19%
Intel Unit	1	0%
Patrol Division	14	16%
Special Victims	5	6%
Traffic Investigations	8	9%
Grand Count	**85**	**100%**

2018 SEARCH WARRANTS SERVED

- Citywide Special Resources Sections
- Ceasefire Division
- Criminal Investigations Div - Task Forces
- Felony Assault / Robbery / Burglary
- Financial Crimes
- Homicide
- Intel Unit
- Patrol Division
- Special Victims
- Traffic Investigations

Objective 2
Verification all evidence recorded on the *Search Warrant Inventory Sheet* is on the associated *Property Record*.

The Lead Auditor removed search warrants served for the sole purpose of acquiring access to bank records, a deoxyribonucleic acid (DNA) extraction, a driving under the influence blood draw, GPS monitoring, cell phone data or a seizure of a vehicle from the sample. Of the 85 search warrants reviewed, there were 67 of them removed. Therefore, the sample for this objective was comprised of the remaining 18 search warrants' respective *Search Warrant Inventory Sheets* and the associated PEU Property Records.

Objective 3
Confirmation of the completion of the required online POST-certified 3-hour "*Search Warrant Fundamentals*" course

The sample was comprised of the 59 different officers who authored the 85 search warrants and 40 supervisors and 26 commanders who reviewed them, totaling 125 officers.

Objective 4
Verification of the Records Division's Receipt of *Risk Assessment Overview/Operations Plan* Forms
Of the 85 search warrants reviewed in this audit, 18 involved the search of a residence. Hence, the population was comprised of 18 search warrants.

FINDINGS

FINDING #1
Upon reviewing the 85 search warrants, the Lead Auditor determined the respective investigators submitted all required search warrant forms to the CID Search Warrant Coordinator for 84 of them (99%).

The auditor specifically checked for the presence of the *Search Warrant, Affidavit, Search Warrant Inventory Sheet*, and *Search Warrant Tracking Sheet* and determined that, with the exception of one *Search Warrant Inventory* form, all of the required forms were present. The table below shows the results of the review:

Table 3: Results of Search Warrant Documentation Review

Document	"Included in Packet"	If No, explain
Copy of signed Search Warrant	All 85 search warrant files reviewed included a copy of the signed Search Warrant	
Copy of signed Affidavit(s)	All 85 search warrant files reviewed included a copy of the signed Search Warrant Affidavit	
Copy of Search Warrant Inventory Sheet	84 search warrant files reviewed included some version of the Search Warrant Inventory Sheet (*see "Additional Observations" below*)	One Search Warrant Inventory Sheet missing.

Additional Observations

Officers are documenting evidence seized on three different versions of a Search Warrant Inventory form.

Upon reviewing the documentation in each search warrant, the Lead Auditor noted that the evidence seized during the search warrant service was not consistently documented on the form in policy (Search Warrant Inventory and Return TF 3079-1), but, instead, two additional forms were used (Table 4):

Table 4: Search Warrant Inventory and Return Forms

Name of Form in Which Officers Documented Evidence Seized and Submitted to CID Search Warrant Coordinator	Number of Forms Submitted
Search Warrant Inventory and Return (TF 3079-1)	13
Search Warrant Inventory (TF 3079)	57
Superior Court of California County of Alameda Warrant Return and Inventory	14
Missing from file	1
Total	**85**

During the OIG's meeting with the Bureau of Investigations Deputy Chief, Search Warrant Coordinator and the Training Division Captain, the Lead Auditor advised them of the three versions of the form. Upon review, the Deputy Chief stated that the correct version includes the names of the officers who conducted the search, and this version is in the Report Writing Room. The other two versions do not require the names of officers present during the search. The Contributing Auditor noted that the correct form is entitled *Search Warrant Inventory* (TF-3079) and this is the form that is kept in the Report Writing Room but not listed in policy. Not listing the correct form in policy causes officers to submit incorrect forms to the Search Warrant Coordinator. Below are the three versions of the forms.

Search Warrant Inventory and Return Form

Search Warrant Inventory Form

Superior Court Warrant Return and Inventory

FINDING #2

Of the 18 search warrants reviewed to verify all evidence recorded on the Search Warrant Inventory Sheet is on the associated PEU Property Record, the Lead Auditor found only three instances in which there were discrepancies between items listed on the Search Warrant Inventory Sheets and Property Records, two of which were reconciled.

The Lead Auditor verified the evidence recorded on the *Search Warrant Inventory Sheets* was on the *Property Records* for 18 search warrants, and was unable to reconcile the evidence in three instances. Therefore, the auditor conducted additional investigation to reconcile the evidence (results are in Table 5).

Table 5: Search Warrant Inventory Sheet and Property Record Discrepancies

Report No.	1
Issue	Items listed on Search Warrant Inventory and Return sheet (chrome revolver, cell phone) not on Property Record.
Status	In speaking with the Reviewing Sergeant of the officer who documented the two items during the search, he stated that, upon review of the PDRD video, the chrome revolver was determined to be fake and left at the scene. In addition, he stated that the officer should have completed a Supplemental Report. He was unable to resolve the cell phone discrepancy. OIG forwarded the evidence discrepancy to the Sergeant's chain of command for further review.
Report No.	2
Issue	Item on Search Warrant Inventory sheet (1 Black leather wallet containing S1's ID, credit cards and *$579* US currency) not on Property Record.

Status	All records were reconciled. The officer who seized the items stated that the wallet was returned to the subject and provided the Lead Auditor with a copy of the "Alameda County Sheriff's Department Prisoner Property Receipt" indicating a wallet and money was released and in addition the suspect's signature stating *"I have received all of my property, clothing and money."*
Report No.	**3**
Issue	Items listed on Search Warrant Inventory and Return sheet (Kitchen Area: brown cutting board with two razor blades, 2 sets of keys possible storage units) are not on the Property Record.
Status	It was unclear to the Lead Auditor if the 2 sets of possible storage keys were correctly accounted for due to varying information on the Search Warrant Inventory sheet, which listed 2 sets of possible storage keys and the Property Record, which listed 3 different sets of keys seized at a different street address. In speaking with the officer who seized the items, she stated that there were actually two addresses searched the same day and all keys were taken to the second address and turned in together. In addition, in speaking to the officer designated to turn in the seized items, he stated that he submitted the cutting board to the Property and Evidence Unit. The Lead Auditor visited the PEU and spoke with the Supervisor regarding the cutting board. He showed the Lead Auditor the sealed evidence and the Lead Auditor observed an object that appeared to be the missing cutting board, which was mislabeled. The Lead Auditor deemed the object to be the cutting board in question. All evidence was reconciled.

In addition to the above, two Search Warrant Inventory and Return sheets were difficult to read due to the illegibility of the handwriting and faintness of the copy provided. The auditor did confirm with the CID Search Warrant Coordinator that hard copies of all records for the search warrant files are securely maintained and retained indefinitely.

FINDING 3
Upon reviewing the *Search Warrant Fundamentals (WEB) Course Attendance Report*, the Lead Auditor confirmed that 117 of the 125 officers (94%) completed the required online, three-hour course, offered via the POST Learning Portal website.

Search Warrant Authors
Fifty-two (88%) of the 59 officers who authored the 85 search warrants completed the required three-hour "Search Warrant Fundamentals" course. Although five officers that authored search warrants had no record of having completed the required 3-hour course, each of them had completed a minimum of 3 hours and up to as many as 41 hours of other search warrant training, either conducted by POST or by OPD's Training Division. One officer completed the "Search Warrant Fundamentals" course, but did so after authoring three search warrants. One officer had no record of any search warrant training, but had only been on the job for approximately four months when authoring a search warrant.

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Reviewing Supervisors and Commanders

Forty supervisors and 26 commanders reviewed the 85 search warrants. All supervisors (100%) and 25 commanders (96%) completed the course. Upon review of the one commander's training records, the Lead Auditor noted that he had only 30 minutes of search warrant training, which was in the year 2009 according to his Training Management System report.

During the audit, the Lead Auditor notified the In-Service/Field Training Unit's Sergeant of the names of the officers who need to complete the required course indicated in policy. He immediately sent an email specifically to the officers found to be non-compliant in the audit, reminding them of the mandated training. He sent another email to all officers in the Department reminding them, too, about the mandated training.

FINDING 4
The Contributing Auditor was able to verify the Records Division's receipt of a *Risk Assessment Overview* and/or an *Operations Plan* form for only two of 13 search warrants involving the search of a residence.

Upon reading the Crime/Supplemental Reports associated to the 18 incidents involving the search of a residence, there were five incidents deemed exempt and therefore the completion of a *Risk Assessment Overview* and *Operations Plan* was not required. Lastly, there were 13 incidents in which a *Risk Assessment Oversight* or *Operations Plan* should have been completed prior to the search of the residence.

Upon seeking the completed *Risk Assessment Oversight* and *Operations Plan* for the 13 incidents involving the search of a resident, the Contributing Auditor was able to locate only two of the incidents' *Operations Plans* in the Records Division's electronic document storage system. The forms for the remaining 11 incidents were not located in the system.

Not finding all or the majority of the forms in the Records Division was concerning. Therefore, the Contributing Auditor began analyzing OPD's internal controls to determine if there is a breakdown in its communication to its officers regarding the retention of the forms. The results were that OPD's internal controls provide ambiguous direction (see below).

Additional Observations
OPD's internal controls provide ambiguous direction to its police officers regarding the completion and the retention of *Risk Assessment Oversight* and *Operations Plan* forms for Service Warrant Service.

Training Bulletin IV-O, *Investigative Procedure for Search Warrant Service*, dated August 20, 2003, states, in part, "Planning a Warrant Service consists of completing a *Risk Assessment Overview* and *Operations Plan* to determine the overall risk of the operation and the personnel and resources required to safely execute the warrant the warrant. To plan a warrant service, perform the following steps: (1) The primary investigator completes and signs a *Risk Assessment Overview* (Form TF-3115, Report Writing Manual Insert O-1…(4) The supervisor overseeing the search warrant service completes and signs an

Operations Plan (Form TF-3116, Report Writing Manual Insert O-2)…" In addition, it states the *Risk Assessment Oversight* and the *Operations Plan* forms become part of the "final case packet."[25] Although the policy does state both forms are to be completed, it does not define a final case packet, what it should include in its entirety, or its location. There is no additional wording in the policy about a final case packet in the Training Bulletin. In addition, there is no wording in the policy about sending the original to the Records Division.

Thereafter, the Contributing Auditor reviewed Training Bulletin I-F, *Search Warrants*, dated March 22, 2016, seeking the location of this "final case packet." The policy does not include information about a "final case packet," but instead introduces three disparate packets: the *Search Warrant Packet*; the *Crime Report Packet*; and *the Search Warrant Return Packet*. Each packet includes some information not included in the other two.[26] However, none of the packets defined in policy include any information related to the *Risk Assessment Oversight* and the *Operations Plan* forms. The Contributing Auditor did note that the Crime Report Packet section does state, in part, that the packet shall include "any additional related documents," but the statement is vague, leaving the reader no examples of qualifying "additional related documents." Moreover, the forms are not explicitly mentioned anywhere in the policy.

Lastly, the Contributing Auditor reviewed two additional policies related to the completion and retention of the forms:

- Report Writing Manual O-1, *Risk Assessment Overview*, dated May 26, 2015, states, in part, "The *Risk Assessment Overview* should be developed for all search warrants…The original…shall be labeled with a report number and retained in the Records Division."[27]
- Report Writing Manual O-2, *Operations Plan*, dated May 26, 2015, states, in part, "The *Operations Plan* should be completed for all search warrants…*Operations Plans*…shall be labeled with the report number and forwarded to the Records Division after the operation is completed…"[28]

The word *should is* problematic because it can be interpreted as a request or an obligation, which is not the same as a command to do something. In addition, neither form mentions retaining a copy in a final case packet, the *Search Warrant Packet*, the *Crime Report Packet* or the *Search Warrant Return Packet*.

Because the Contributing Auditor was unable to find forms for 11 incidents and OPD's internal controls provide ambiguous direction, she selected five of the incidents and sought the completed *Risk Assessment Oversight* and *Operations Plan* by emailing the respective Affiant,[29] Reviewing Supervisor and Reviewing Commander documented on the associated *Search Warrant Approval Tracking Sheets*. The Auditor received four responses. One incident had a different Crime/Supplemental Report number than what was initially listed on the associated search warrant. However, upon reading the associated Crime/Supplemental Report, the affiant was exempt from completion of the form(s). The Auditor did

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[25] Pgs. 3-4
[26] For a list of the contents in each packet, see Attachment A.
[27] Pgs. 1 and 4.
[28] Pgs. 1 and 4.
[29] The person who authored the search warrant.

receive completed *Risk Assessment Oversight* and *Operation Plan* forms for three incidents. To date, there was no response regarding the last request. Based on the responses received, the completed forms are retained somewhere in a file controlled by each respective Affiant, Reviewing Supervisor and/or Reviewing Commander, a practice not described in any of OPD's policies.

The OPD states its objective for having its officers complete a *Risk Assessment Overview* and *Operations Plan* is to determine the overall risk of the operation and the personnel and resources required to safely execute the warrant. Not giving clear direction regarding when to complete the forms and where to retain them can negatively impact the OPD and all officers involved in searching a house based on a warrant if someone is injured and/or harmed and the OPD is unable to show documentation that all precautionary measures were taken to prevent the harm and/or injury. The OPD has to be clear about when to complete each form for search warrant service, who completes the form, and where to retain the original and a copy, if applicable.

Additional exemptions related to the completion of the *Risk Assessment* and *Operations Plan* form for Search Warrant Service are not transparent in policy.
Other than the one exemption that OPD does make in the completion of the *Risk Assessment Overview* form—in instances requiring an immediate response, limited time may not allow officers to prepare the form—completion of both forms is required by policy. Yet, when the Lead Auditor and Contributing Auditor met with the OPD's Search Warrant Instructor (a Sergeant), he stated there are instances in which the forms are not required because the risk of suspects, citizens, employees, and/or police officers being harmed or injured while executing the search warrant is minimal or nonexistent. Below are examples of the types of search warrant service in which the forms are not required and the reason(s) the forms are not applicable, according to the Search Warrant Instructor:

- Deoxyribonucleic acid (DNA)—more often than not the suspect is in custody.
- Driving under the influence (DUI) blood draws—the suspect is in custody; the request is for an administrative search warrant and the judge approves it right away.
- Cell phone data—no suspect is physically searched; the cell phone data is obtained by contacting a company (i.e., AT&T, Sprint, T-Mobile, etc.) or the phone is downloaded with a device.
- Global positioning system (GPS)—no suspect is physically searched.
- Vehicles—most often the OPD has already seized the vehicle as evidence.

None of the OPD's policies related to the completion of the Risk Assessment Oversight and Operations Plan forms mention the exemptions above; therefore, the polices are lacking in transparency. Not adding an accurate list of exemptions in policy interferes with OPD's quest to offer stakeholders transparent police operations.

In practice, there are no documents called or referred to as Search Warrant Packets, Crime Report Packets, or Search Warrant Return Packets.
When OIG met with the Bureau of Investigations Deputy Chief, Search Warrant Coordinator and Training Division Coordinator, the Deputy Chief and Training Division Captain stated that there were no packets of any kind. The Contributing Auditor noted that the use of the word "packet" in policy is incorrect.

CONCLUSION

Overall, the department is doing well with the search warrant process, but the audit indicated there are a few concerning areas the Department should address. First, revise the policy to include language that addresses the appropriate circumstances in which an officer is to complete the "Risk Assessment" and/or "Operations Plan" forms and remove confusing language such as Search Warrant packets, Crime Report packets and Search Warrant Return packets. Second, determine if the current mandated three-hour Search Warrant Fundamentals WEB course is sufficient training or if the course conducted by its Training Division is superior in content and application. Lastly, determine the correct version of the *Search Warrant Inventory* form that officers should complete, and then cancel and discontinue the use of any other *Search Warrant Inventory* form.

Findings and Recommendations

OIG Findings	OIG Recommendations
Finding #1 Officers are documenting evidence seized on three different versions of a Search Warrant Inventory form.	**Completion of Forms** 1. The Department should ensure officers complete and submit the correct Search Warrant Inventory form (TF-3079) to the CID Search Warrant Coordinator. The Department should also update the policy, Training Bulletin I-F, with the correct form.
Finding #3 Currently, the OPD requires all police officers, regardless of rank, to complete an online, three-hour course, offered via the POST Learning Portal website, entitled *Search Warrant Fundamentals*. The course teaches officers how to get started writing a search warrant; the parts of an affidavit; and what happens after the affiant has written the search warrant and it was signed by a magistrate. The course also provides scenario-based interactions to ensure officers have opportunities to practice with location descriptions, writing a statement of expertise, and recognizing a complete statement of probable cause.	**Training Issue** 2. The Department should determine if the Search Warrant Fundamentals Course, conducted by POST, is superior to the search warrant courses conducted by the OPD, and If not, consider revising the requirement in Training Bulletin I-F to allow the OPD's course to meet the training requirement.
Finding #4 The Contributing Auditor was able to verify the Records Division's receipt of a *Risk Assessment Overview* and/or an *Operations Plan* form for only two of 13 search warrants involving the search of a residence. OPD's internal controls provide ambiguous direction to its police officers regarding the completion and the retention of *Risk Assessment Oversight* and *Operations Plan* forms for Service Warrant Service. Additional exemptions related to the completion of the *Risk Assessment* and *Operations Plan* form for Search Warrant Service are not transparent in policy.	**Policy Issues** 3. The Department should revise Training Bulletin I-F to include language that informs all officers when to complete the Risk Assessment Oversight and Operations Plan forms and that requires the form be sent to the Records Division for records maintenance. 4. The Department should ensure all policies (Training Bulletin I-F and Report Writing Manual O-1, *Risk Assessment Overview* and Report Writing Manual O-2, *Operations Plan*) include all exemptions related to the non-completion of the Risk Assessment Oversight and Operations Plan forms.

OIG Findings	OIG Recommendations
In practice, there are no documents called or referred to as Search Warrant Packets, Crime Report Packets, or Search Warrant Return Packets.	5. The Department should revise Training Bulletin I-F to clarify its search warrant process. In addition, the Department should remove the word "packet" from policy since there are no Search Warrant Packets, Crime Report Packets, or Search Warrant Return Packets.

Attachment A

Packets found in Training Bulletin IV-O, Search Warrants, dated March 22, 2016.

<u>The Search Warrant Packet</u>

Section VII, entitled *Search Warrant Signing Procedure*, states, "Search Warrant packets shall include the following documents:

- Search warrant
- Affidavit
- Search Warrant Approval Tracking Sheet (TF-3343)
- Attachments or exhibits, if applicable:
  a) Search warrant sealing order(s)
  b) Sealed document(s)
  c) Chemical Analysis Report (TF-708)
  d) Crime Report(s)
  e) Photo(s)
  f) Diagram(s)"

<u>The Crime Report Packet</u>

Section IX, entitled *Crime Report Packet*, states, "The crime report packet shall include:

- A copy of the search warrant
- A copy of the affidavit
- A copy of the Search Warrant Inventory and Return (TF-3079)
- A copy of Search Warrant Inventory and Return Continuation (TF-3079-2)
- A Crime Report
  Any search warrant service shall be documented in a crime report regardless of whether evidence is recovered. The officer shall document any known damages resulting from the search warrant service (e.g. broken doors, safes, fences).
- Any additional related documents."

<u>Search Warrant Return</u>

Section X, entitled Search Warrant Return states, "The Affiant, or designee, shall submit the search warrant return packet to the Search Warrant Coordinator at the Criminal Investigation Division (CID). The search warrant return packet includes the following documents:

- The original Search Warrant Approval Tracking Sheet (TF-3343)
- A copy of the search warrant
- A copy of the affidavit
- A copy of the Search Warrant Inventory and Return (TF-3079-1)
- A copy of the Search Warrant Inventory and Return Continuation (TF-3079-2)

The Search Warrant Coordinator shall:

- Review the search warrants, affidavits, *Chemical Analysis Reports*, *Search Warrant Inventory and Returns*, and *Search Warrant Tracking Approval Sheets* for completeness and accuracy.
- Forward the search warrant return packet to the CID Commander for final review.
- Once reviewed and determined to be in compliance, scan the search warrant return packet into a PDF.
- Store the search warrant return packet PDF in an electronic folder for a period of five (5) years.

Officer Integrity Trends and Other Critical Observations Regarding Hiring and Training Practices – 3rd Follow-Up

By Auditor Kristin Burgess and Contributor Lieutenant Angelica Mendoza

Background and Overview

The Office of Inspector General (OIG) conducted a third follow-up assessment of its 2016 report on *Officer Integrity Trend and Other Critical Observations Regarding Hiring and Training Practices*, with the goal of determining the status of the four recommendations that were previously considered 'partially addressed' during the second follow-up assessment.

In December 2016, the OIG published a performance report on *Officer Integrity Trends and Other Critical Observations Regarding Hiring and Training Practices*. Observations and recommendations focused on the Department's ability to effectively identify, assess and manage personnel related risks involving misconduct or unethical behavior. Ultimately, 11 recommendations for improved internal controls over policies and practices were offered, and wholly accepted by the Department.

The OIG subsequently assessed whether the Department implemented the 11 recommendations, and published a follow-up report in its *Quarterly Progress Report*, dated October – December 2017, noting six recommendations had been addressed, while the other five were considered partially addressed.

The OIG conducted a second follow-up assessing the status of the five partially addressed recommendations, which was published in its *Combined 1st and 2nd Quarterly Progress Report*, dated January – June 2018. One recommendation had been addressed, while the other four remained partially addressed. These four recommendations are the focus of this third follow-up.

Recommendation #3	OIG strongly recommends that the Department should codify the current practice of using the academy peer evaluations into written policy with a provision that it be viewed as both a risk management tool and as a hiring and training performance metric that will be routinely assessed. Lastly, the Department should ensure trainees are made aware of and have access to an anonymous reporting resource (*i.e., the City's pre-existing Fraud, Waste and Abuse hotline*).
Recommendation #4	The Department should track separation based on employment phase as a possible risk management performance metric to ensure that the Department is removing those engaged in misconduct and/or unethical behavior as early as possible during probation.
Recommendation #5	The Department should develop a policy detailing the requirements for applicant/trainee tracking and records maintenance, including consideration of consolidating siloed systems or ensuring that information is consistent among all units. Additionally, OIG recommends the Department direct the Training Section to prioritize an organized system of record keeping (*preferably electronic*) that would allow for a quick and comprehensive review of all trainees and overall academy performance. Resources should

	be provided to the Training Section to accomplish this task in an expedited manner.
Recommendation #11	The Department should revise its current policy (which was last updated in 1999) within 6 months so that POST certified training is a requirement for those performing background investigations that are not assigned to the R&B Unit. Additionally, background investigators should be required to have investigative experience, if they have never previously worked within the R&B Unit. Also, in keeping with ensuring quality investigations are being performed, greater managerial oversight – beyond just requiring POST training – should also be considered. For example, R&B Unit management staff should monitor caseload and staffing resources, perform quality checks for policy and regulatory compliance, and conduct routine reviews of background investigator performance, specifically IPAS data.

In the second follow-up, the Training Division Commander responded with a memo dated September 13, 2018 (See Attachment A) addressing recommendations #3 and #11. The following commitments were included in the memo:

- Develop an OPD curriculum for a Background Investigation course and submit to POST for certification *(due by October 31, 2018)*
- Develop a Policy and Procedure for the Recruiting and Background Unit *(due by December 31, 2018)*
- Host a 32-hour POST certified Background Investigation course *(due by January 28, 2019)*
- Revise DGO B-13 (Basic Academy Performance Standards) to reflect (1) the current POT[30] discipline process, and (2) the role of peer evaluations in that process *(due by October 31, 2018)*
- Revise the Academy Manual[31] to reflect (1) the current POT discipline process, and (2) the role of peer evaluations in that process *(Completed as of the date of the memo)*

For recommendations #4 and #5, the Department committed to implement new technology for tracking personnel and training data.

This third follow-up found that recommendations #4 and #5 have been addressed, and recommendations #3 and #11 have been partially addressed, since the policy updates committed to by the Department are still in the review process.

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[30] POT stands for Police Officer Trainee.

[31] The Academy Manual (previously known as the "*Police Officer Trainee Manual*") was created by the Department, and is provided to all new Trainees at the beginning of the Academy. It sets guidelines for areas such as performance, demeanor, appearance, testing, discipline, and evaluations.

Status of Recommendations

Recommendation #3

OIG strongly recommends that the Department should codify the current practice of using the academy peer evaluations into written policy with a provision that it be viewed as both a risk management tool and as a hiring and training performance metric that will be routinely assessed. Lastly, the Department should ensure trainees are made aware of and have access to an anonymous reporting resource (i.e., the City's pre-existing Fraud, Waste and Abuse hotline).

Status

The Training Division responded to OIG's second follow-up report by committing to revise Departmental General Order, DGO B-13, Basic Academy Standards and the Department's Academy Manual (previously known as the "Police Officer Trainee Manual") to reflect the current Police Officer Trainee discipline process and the role of peer evaluations in that process (See Attachment A). As of the date of this report, the following steps have been taken:

- The Department has drafted a revised version of DGO B-13, which has been reviewed by the City Attorney's Office. The Department is in the process of reviewing City Attorney feedback and will finalize the policy, after which it will be submitted to the Police Commission for their review.
- The Department's Academy Manual has been updated to include the discipline process and the role of peer evaluations. The revised manual (*Revised: February 2019*) was provided to OIG and the additional language on discipline and peer evaluations was confirmed.

In addition, the California Commission on Peace Officer Standards and Training (POST) is currently developing an Academy Manual. Chief A. Kirkpatrick has assessed and reviewed a draft copy of the POST Academy Manual, and plans to adopt it as the Oakland Police Department's *Academy Coordinator's Manual*, upon finalization and release by POST.

The Department's current Academy Manual (*previously known as the "Police Officer Trainee Manual"*) is provided to all new trainees at the beginning of the Academy and sets guidelines for areas such as performance, demeanor, appearance, testing, discipline, and evaluations. The POST Academy Manual will serve as a guide for the Oakland Police Department's Training Division's Academy Staff on how to manage a police academy.

Recommendation #4

The Department should track separation based on employment phase as a possible risk management performance metric to ensure that the Department is removing those engaged in misconduct and/or unethical behavior as early as possible during probation.

Status

The Department launched a new software application in the fall of 2018 for its Personnel Division, *Oakland Police Department Human Resource Management* (*OPD HRM*). Data fields were added to the system allowing the Department to more easily track employee separation. OIG confirmed the update with a screenshot of the new fields in the system (*See Attachment B*). Per the Personnel Division Manager, the new fields will be used for anyone separating from the Department after the application was implemented last fall. However, there will be no retroactive data entry for employees who separated prior to the implementation of the application.

Recommendation #5

The Department should develop a policy detailing the requirements for applicant/trainee tracking and records maintenance, including consideration of consolidating siloed systems or ensuring that information is consistent among all units. Additionally, OIG recommends the Department direct the Training Section to prioritize an organized system of record keeping (*preferably electronic*) that would allow for a quick and comprehensive review of all trainees and overall academy performance. Resources should be provided to the Training Section to accomplish this task in an expedited manner.

Status

On March 23, 2019, the Department launched a new software application called METR[32], which is now the central tracking system for Department training and Academy data. The Department has been using software from LEFTA[33] Systems to track field training for new officers for several years. METR was developed by LEFTA Systems and was customized for the Department to track routine employee training and Academy data. METR includes a module specifically for the Academy to track academy training, test scores, and overall performance. It has also replaced a software application called TMS (Training Management System) that was tracking routine employee training, such as continued professional training and external trainings attended by both sworn and professional staff. The plan was for METR to also replace PowerDMS (Document Management System), a software application that serves as the warehouse for all Department policies and tracks staff review of policies. However, after the launch of METR, the application didn't meet the needs of the Department for policy tracking and storage. METR has several planned upgrades to address the issues in a future release, scheduled for late 2019 or early 2020. As a result, OPD has elected to continue the use of PowerDMS for policy dissemination and tracking.

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[32] Managing Employee Training Records (METR), is a web-based software program that allows agencies to create, store and access their sworn and civilian employee training records in one single, comprehensive application. METR communicates directly with LEFTA Systems' Field Training application (LEFTA) and combined, these programs enable an agency to track an employee's training documents from FTO training until retirement or separation (https://leftasystems.org/products/training-records-software-metr/).

[33] Law Enforcement Field Training Application (LEFTA), is a comprehensive field training software program that monitors on-the-job performance during the field training curriculum and probationary period (https://leftasystems.org/products/fto-software-lefta/).

Electronic training records from the legacy TMS system were migrated into METR. However, the Department has historically maintained paper files for Academy trainees. Because past Academy records were not in electronic format, they were not migrated into METR. METR will only include Academy data from the time it was launched.

Recommendation #11

The Department should revise its current policy (which was last updated in 1999) within 6 months so that POST certified training is a requirement for those performing background investigations that are not assigned to the R&B Unit. Additionally, background investigators should be required to have investigative experience, if they have never previously worked within the R&B Unit. Also, in keeping with ensuring quality investigations are being performed, greater managerial oversight – beyond just requiring POST training – should also be considered. For example, R&B Unit management staff should monitor caseload and staffing resources, perform quality checks for policy and regulatory compliance, and conduct routine reviews of background investigator performance, specifically IPAS data.

Status

Draft Policy
The Department has drafted a revision to Department General Order D-11, *Recruiting and Background Investigation Policy and Procedures*, last revised December 22, 1999. OIG reviewed the draft and found the revisions to include specific requirements for the selection and training of Background Investigators and supervisory responsibilities for managing background investigators. The revised policy has been submitted through the Chain of Command and is currently being updated after being reviewed by the Research and Planning Unit. Once the updates are complete, the draft policy will be sent to the City Attorney's Office for review.

Since the revisions to Department General Order D-11 have not been finalized, the Recruiting and Backgrounds Unit (R&B Unit) Sergeant emailed all officers and sergeants on February 7, 2019 stating, *"Moving forward, the Recruiting and Background Unit will no longer assign backgrounds to individuals that have not attended the POST Background Investigations Course."* On February 11, 2019, the R&B Unit Sergeant sent an email to all officers and sergeants outlining the new requirements for anyone interested in becoming a Background Investigator. The email stated the following:

> *"Members interested in conducting background investigations as a collateral assignment shall submit a memorandum addressed to the R&B Unit Sergeant. To be eligible for consideration, a member must have a minimum of three (3) years of experience as a police officer. The memorandum should document the member's qualifications, to include investigative experience, if and/or when they received Procedural Justice training, and must be endorsed by the member's chain of command. Supervisors shall prepare an 18-month matrix report (TF-3249) for the member. Exceptions for the assignment can be considered if a member has previous applicable experience."*

Post Certified Training
The Department hosted a 32-hour POST certified *Background Investigation* course on January 28-31, 2019. A POST certified instructor was contracted by the City of Oakland, Oakland Police Department to teach the course and 42 employees attended.

The Department also developed its own two-day *Background Investigation* course, and the course curriculum received POST approval on February 5, 2019. The Department's course is a POST certified course and is taught by a Sergeant and Officer currently assigned to the R&B Unit. Per the R&B Lieutenant, the Sergeant and Officer are POST certified instructors. Moving forward, the Department will be able to provide internal POST certified *Background Investigation* courses, in the event external courses are unavailable or full. The first OPD course took place on June 17-18, 2019 and 16 employees attended.

There are currently 79 active Background Investigators, 82% of which are current personnel that are not assigned to the R&B Unit (*Table 1*). Eight background investigators are assigned to the R&B Unit and all have completed the POST certified *Background Investigation* course. Sixty-five background investigators are current full-time employees who conduct background investigations as an auxiliary assignment and all 65 have completed the course. The remaining six background investigators are annuitants, who are retired OPD officers hired back by the Oakland Police Department as independent contractors, and meet designated guidelines that are established by the CalPERS retirement system. All six annuitants have attended a POST certified *Background Investigation* course.

Table 1: 2019 Background Investigators	# of Total	% of Total
Sworn personnel not assigned to the R&B Unit (auxiliary)	65	82%
Sworn personnel assigned to the R&B Unit	8	10%
Annuitant assigned to R&B Unit	6	9%
Grand Total	*79*	*100%*

Attachment A: Training Division Response Memorandum to OIG's 2nd Follow-Up Report
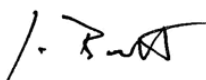
CITY OF OAKLAND

Memorandum

To: Office of the Chief of Police
Attn: Chief Anne E. Kirkpatrick
From: Training Division
Date: 13Sep18

RE: Deliverables from 6Sep18 Meeting with OIG, IMT, and Plaintiffs' Attorney

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The purpose of this memorandum is to document the tasks, responsible personnel, and associated timelines discussed during the 6Sep18 meeting to address the second follow-up for OIG's report, *Officer Integrity Trends and Other Critical Observations Regarding Hiring and Training Practices* (December 2016).

Task	Responsible Personnel	Timeline
Develop an OPD curriculum for a Background Investigation course and submit to POST for certification	Sgt. Bryan Hubbard, Sgt. Aaron Smith, Sgt. Bradley Miller, and Officer Marcus Moreno	31 Oct 18 (POST generally takes a minimum of 90 days to review)
Develop a Policy & Procedure for the Recruiting and Background Unit	Capt. Jake Bassett, Sgt. Aaron Smith, and PPOS Angel Coogler	31 Dec 18
Host a 32-hour POST-certified Background Investigation course	Sgt. Aaron Smith and Sgt. Bradley Miller are coordinating with Chief (Ret.) Sid Smith to schedule this training	28-31 Jan 19
Revise DGO B-13 (Basic Academy Performance Standards) to reflect (1) the current POT discipline process, and (2) the role of peer evaluations in that process	Lt. Frederick Shavies and Manager Tim Birch	31 Oct 18
Revise the Academy Manual[1] to reflect (1) the current POT discipline process, and (2) the role of peer evaluations in that process	Sgt. Bryan Hubbard	Completed

Jake Bassett
Captain of Police
Training Division

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[1] Previously known as the "Police Officer Trainee Manual".

1 of 1

Attachment B: OPD HRM Screenshot