

# Oakland Police Department

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## Office of the Inspector General

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## Special Report

An Assessment of the Oakland Police Department's Use of Force Reporting, Usage of Portable Digital Recording Devices, and Supervision of Incidents During Arrests for Offenses Where There is a Significant Chance That Force Would be Used

**Oakland Police Department**  
**Office of Inspector General**

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# An Assessment of the Oakland Police Department’s Use of Force Reporting, Usage of Portable Digital Recording Devices, and Supervision of Incidents During Arrests for Offenses Where There is a Significant Chance That Force Would be Used

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## Objectives

1. Determine if Departmental uses of force are being reported and investigated as required, in accordance with Department policy.
2. Determine if there are any racial disparities associated with the identified underreporting of force.
3. Determine if officers are complying with relevant Portable Digital Recording Device (PDRD) policy and procedure requirements.
4. Determine if misconduct violations are properly identified and addressed in accordance with Departmental General Order M-3 *Complaints against Departmental Personnel or Procedures* and the Department’s Manual of Rules (MOR).
5. Determine if supervisors are providing effective oversight and monitoring of their subordinate’s performance in incidents during arrests for offenses where there is a significant chance that force would be used (i.e., training/tactics, PDRD and report reviews, and interactions with the public).

## Key Strengths

- ✘ Based on the incidents reviewed, no uses of force appeared to be unreasonable, per Department General Order K-3 (Use of Force).

## Key Weaknesses

- ✘ Uses of force involving weaponless defense techniques and pointing of a firearm at a subject are not always being reported in accordance with Department policy and procedures.
- ✘ Of the 47 incidents reviewed, there were 18 incidents involving 31 officers not complying with PDRD policy requirements.

- ✘ Improvements are needed in the supervisory review of incidents likely to involve force.

## Key Recommendations

1. The Department should revise and retrain DGO K-3 *Use of Force* and DGO K-4 *Reporting and Investigating the Use of Force* to address the following:
  - a. Reduce ambiguity related to the “low-ready” and “intentional” pointing of a firearm
  - b. Clarify weaponless defense techniques that are reportable, specifically “take downs”
  - c. Ensure that all force outlined in DGO K-3 and Training Bulletin III-I.1, *Weaponless Defense* is aligned with reportable force outlined in DGO K-4
  - d. Incorporate post use of force positioning and monitoring which outlines what members shall do after gaining control of a subject
  - e. Clarify reporting requirements for officers that use force off-duty
2. The Department should reinforce and clarify PDRD policy requirements for all field personnel, with emphasis on proper activations and deactivations, to include “for administrative purposes” and the articulation and documentation of when these instances occur. Also, PDRD violations should be recognized as serious policy violations. Patterns of PDRD violations and intentional violations should be disciplined according to policy.

## Executive Summary

On December 4, 2018, the Office of Inspector General (OIG) initiated an audit to assess the Oakland Police Department's (OPD) reporting of force, usage of Portable Digital Recording Devices (PDRD), and supervision of incidents during arrests for offenses where there is a significant chance that force would be used. This audit followed an earlier OIG review of the Department's downward trend in the number of pointing of a firearm incidents (published in OIG's [3<sup>rd</sup> Quarterly Progress Report](#)), which found instances of underreporting. The review of pointing of a firearm incidents was initiated because of the steady decline in reported uses of force between 2013 and 2017, and more specifically, the significant drop (44%) in reported pointing of a firearm incidents between 2016 and 2017. In March 2018, the Department began to examine and explore whether there was some explanation for the decline other than improved risk management practices. Subsequently, the OIG initiated an audit of the type of force which reflected the largest decrease, identified as category Level 4/Type 22 (pointing of a firearm at subjects). Concurrently, the Independent Monitor for the Oakland Police Department (OPD), also questioning the decline, conducted their own review and identified possible underreporting of weaponless defense techniques and the pointing of a firearm at subjects, as well as PDRD violations.

The purpose of this follow-up audit was to determine if additional types of force were going unreported, and to identify issues associated with the use of PDRDs<sup>1</sup> and supervision of incidents likely to involve force. A sample of incidents was selected from 2018 where there was a high probability that officers would use force (i.e., firearms related crimes, assault on a peace officer, resisting arrest, disorderly conduct, etc.<sup>2</sup>). Forty-seven incidents were selected based on the documented circumstance of the incident and/or language suggesting or describing force was used. Not all force is reportable, but policy requires that reportable uses of force be documented on a use of force form and reviewed/approved by a supervisor, and when applicable the chain of command. All documentation and available video footage for the 47 incidents were reviewed. Of these 47 incidents, the auditors identified 17 in which a reportable use of force went unreported (no use of force form was completed).

This audit found underreporting in two types of force, pointing of a firearm and weaponless defense techniques (primarily take downs). Twelve of the 17 incidents of underreporting involved four squads of officers<sup>3</sup>. Upon review, none of the uses of force reviewed appeared to be unreasonable per Department General Order K-3 *Use of Force Policy* which states, "Members are allowed to use a reasonable amount of force based on a totality of the circumstances." However, all 17 instances identified were referred to the Internal Affairs Division for further investigation. In all 17 cases, there was at least some PDRD video footage of the incident allowing the auditors to determine force was used.

Because the Department was made aware of the possible underreporting of the pointing of a firearm based on OIG's preliminary findings in its earlier review of the downward trend in the pointing of a

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<sup>1</sup> PDRDs are Portable Digital Recording Devices that record audio and video of incidents and are worn by officers.

<sup>2</sup> All offenses selected are listed in the Scope and Sample section of this report.

<sup>3</sup> There are approximately 50 squads in the Department in field assignments. Two of the four squads were specialized units and two were patrol squads.

firearm, in September 2018, the Chief of Police directed refresher training on the reporting requirements for the pointing of a firearm. The refresher training, which clarified what is a reportable pointing of the firearm, occurred in September and October 2018. During this audit of use of force, PDRD usage and supervision of 2018 incidents likely to involve force, 11 of the 12 underreported pointing of a firearm incidents occurred prior to or at the time of this refresher training, during which time OIG's earlier review found that policy, training and monitoring issues were contributing to the potential underreporting of the pointing of a firearm. OIG expected that this review would identify additional instances of underreporting of the pointing of a firearm, since they occurred prior to any corrective measures taken by the Department.

In addition to the refresher training, the Department began taking other corrective measures in late 2018, as a result of OIG's preliminary findings in its earlier review of the downward trend in the pointing of a firearm. The Chief published a Special Order requiring supervisory review of PDRD footage for incidents involving Penal Code 69, 148, and 243(b)(c) arrests (threatening an officer, resisting arrest, battery on an officer) in late November 2018. The Department has also drafted a Special Order (9196) clarifying what types of force are reportable, most importantly with regards to the pointing of a firearm and weaponless defense techniques. Special Order 9196 is currently in the mandated review process, which includes review by the Independent Monitoring Team, the City Attorney's Office and the Police Commission. It should be noted, beginning in October 2018, the total number of reported uses of force (all types of force) increased dramatically, by nearly 300% between January and May 2018 and January and May 2019.

This audit also identified issues associated with PDRD activations and improvements needed in the supervisory review of incidents likely to involve force. Of the 47 incidents reviewed, there were 18 incidents involving 31 officers not complying with PDRD policy requirements, including the inability to locate video footage of the incident, delayed activations, premature deactivations and several deactivations citing "*for administrative purposes.*" However, in nearly all incidents with PDRD issues, there was video footage located from multiple officers who were on the scene of the incident. There were five incidents where complaints were not addressed in accordance with policy, and two vehicle pursuit incidents that had issues with documentation. There were also issues identified with reports (i.e., discrepancies between reports and "*boilerplate,*" "*pat,*" or "*canned*" language). These issues should have been identified by supervisors and reviewing commanders through a critical, in-depth review of the incident documentation, to include its associated PDRD video footage.

The audit findings indicate that the Department needs improvement in the areas outlined above, and OIG provides recommendations for policy revisions and additional training. Improving the quality and accuracy of documentation and the supervisory review of incidents likely to involve force will help ensure quality investigations based on complete evidence and accountability for officers, supervisors and commanders that don't follow policy. The Department needs to address PDRD activations to ensure the entire incident is properly captured on video. The Department should also provide additional training to supervisors and commanders on conducting critical reviews of incidents likely to involve force.

## Background

### **Prior Audits**

The OIG, in its [3<sup>rd</sup> Quarterly Progress Report](#), published an audit regarding the Oakland Police Department's (OPD's) downward trend in the number of reported police officers' intentional pointing of a firearm at subjects. The audit indicated the Department's uses of force had been on a steep decline since 2013. The total number of incidents involving use of force dropped 22 percent per year on average between 2013 and 2017. In late 2017 and early 2018, the numbers were continuing to drop, and a change in the Department's methodology<sup>4</sup> for calculating uses of force provided new insight into how dramatic the drop was. In March 2018, the Department began to examine and explore whether there was some explanation for the decline other than improved risk management practices. Subsequently, the OIG initiated an audit of the type of force which reflected the largest decrease, identified as category Level 4/Type 22 (pointing of a firearm at subjects). Between 2016 and 2017, the number of incidents involving a Level 4/Type 22 use of force dropped by 44%. The audit identified instances of not reporting force when required and inadequately designed policies and weaknesses in training, and monitoring of the said force.

Concurrently, the Independent Monitor for the Oakland Police Department (OPD), also questioning the decline, conducted their own review and identified possible underreporting of various types of force, as well as PDRD violations, use of boilerplate language, and concerns about supervision. These results were published in the [Fifty-Eighth Report of the Independent Monitor for the Oakland Police Department](#).<sup>5</sup> To conduct the audit, the Independent Monitor selected arrest reports involving specific offenses (i.e., resisting arrest, assault on an officer, evading an officer, disorderly conduct) for which there were no accompanying use of force reports. They reviewed over 100 such reports. Based on the circumstances described in these reports, they requested from the OIG PDRD video recordings associated to 38 of the over 100 such reports they reviewed where it appeared force was used and/or was likely to have been used. Although their review of the video recordings found no instances where the force used was unwarranted or inconsistent with policy, their assessments of the video recordings indicated officers used force in 14 of the cases they reviewed, with six of the cases involving officers pointing the firearms at person(s). Additionally, in part, they noted that upon reviewing the associated video recordings for the 38 arrests, there was a lack of consistency regarding video activation during the activities, specifically during the arrest, and concerns about boilerplate language and supervision.

As a result of the Independent Monitor's findings, and after OIG was in progress of completing its use of force reporting of its Level 4/Type 22, pointing of the firearm audit report, the OIG initiated a more robust and comprehensive audit focusing on the following objectives:

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<sup>4</sup> Prior to August 2017, use of force was counted based on the highest level of force used in an incident, so one incident was counted as one use of force. Starting in August 2017, due to new data available via PRIME, all uses of force in each incident are captured and used for calculating the use of force numbers. Currently, the Department counts each force used by each officer on each subject, unless the same officer uses multiple force types on the same subject, and then only the highest level of force is counted for that officer.

<sup>5</sup> Pages 2-3.

1. Determine if Departmental uses of force are being reported and investigated in accordance with Department policy.
2. Determine if there are any racial disparities associated with the underreporting of force.
3. Determine if officers are complying with relevant Portable Digital Recording Device policy and procedure requirements.
4. Determine if misconduct violations are properly identified and addressed in accordance with Departmental General Order M-3 *Complaints against Departmental Personnel or Procedures* and the Department's Manual of Rules (MOR).
5. Determine if supervisors are providing effective oversight and monitoring of their subordinate's performance in incidents during arrests for offenses where there is a significant chance that force would be used (i.e., training/tactics, PDRD and report reviews, and interactions with the public).

It should be noted that the sample of incidents likely to involve force assessed in this audit includes the aforementioned 14 cases reviewed by the Independent Monitor and discussed in their [Fifty-Eighth Report of the Independent Monitor for the Oakland Police Department](#).

## **OPD Use of Force Policy**

### **Use of Force**

Based on the objectives and findings in this audit, certain terms need to be defined: (1) use of force; (2) use of defensive tactics and techniques (physical force); and (3) the intentional pointing of a firearm at another person. DGO K-3, *Use of Force Policy*, effective October 16, 2014, is OPD's policy that defines the terms.

### **Section II.C**

A **use of force** is defined as any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain or overcome the resistance of an individual.

### **Section III.B**

At times, it may be necessary for a member to use force **or defensive tactics and techniques** (also referred to as weaponless defense techniques) to accomplish a police objective, such as taking a subject into custody; preventing the commission of a crime; or in response to a suspect's resistance. The defensive tactics and techniques that may be used include, but are not limited to, hand/palm/elbow strikes; kicks; take-downs; leg sweeps; arm-bar takedown; and control holds such as escort via elbow, bent wrist, twist lock, and arm-bar hammerlock.

### **Section IV.A**

The **intentional pointing of a firearm at another person** is a use of force. The drawing exhibiting and intentionally pointing of a firearm at another person is threatening and intimidating and when unwarranted may cast a negative impression on members. A member may intentionally point a firearm only when the member has reasonable cause to believe it may be reasonable for his/her safety or for the safety of others. The pointing of a firearm at a person is a seizure and requires legal justification.

No member shall draw and point a firearm at or in the direction of a person unless there is a reasonable perception of a substantial risk that the situation may escalate to the point where lethal force would be permitted. When it is determined that the use of lethal force is not necessary, as soon as practicable firearms shall be secured or holstered.

### **Reporting and Investigating the Use of Force**

This audit indicated that three levels<sup>6</sup> of force were used: **Level 2, Level 3, and Level 4**. Level 1 uses of force are the most serious uses of force (i.e., force resulting in death or substantial risk of death and any intentional firearm's discharge by an officer) but are not addressed in this audit. The OPD's policies delineating the reporting and investigation of each force level include:

- Departmental General Order K-4, ***Reporting and Investigating the Use of Force***, effective October 16, 2014
- Report Writing Manual Insert U-1, ***Use of Force Report (Level 1-3)***, effective December 14, 2015
- Report Writing Manual Insert U-2, ***Level 4 Use of Force Report***, effective May 27, 2010

Other policies referenced in this report can be found in Appendices B and C.

## Methodology

To assess the OPD's reporting of force, usage of portable digital recording devices, and supervision of incidents likely to involve force, the OIG used a two-prong test. First, the Lead Auditors reviewed the documentation (i.e., Crime/Supplemental Reports, Consolidated Arrest Reports, etc.) of incidents likely to involve force in which one or more suspects were arrested, and for which there was no associated use of force report. Second, based on the circumstances described in these reports, they reviewed associated video recordings for arrests that were more probable to have involved a use of force. Upon reviewing the video recordings, the Auditors assessed each incident using the following criteria:

- a. Was force used that is reportable as stipulated in DGO K-4, *Reporting and Investigating the Use of Force*?
- b. If any arrests were made that require a supervisor's approval, did a supervisor approve the arrest?
- c. Were all required incident reports completed (Crime, Supplemental, Ancillary documents, Field Interview, Stop Data, etc.)?
- d. Did the incident reports properly and thoroughly document the actions of the officer?
- e. Were the incident reports properly reviewed and approved by a supervisor?
- f. During the incident, was each police officer's PDRD activated and deactivated as required by DGO I-15.1, *Portable Video Management System* to include the required documentation of such?
- g. Were all complaints accepted and processed as required by DGO M-3, *Complaints against Departmental Personnel or Procedures*?

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<sup>6</sup> OPD labels force used on a subject based on severity. For a complete list of force in each category, see Appendix A.

- h. Were all misconduct violations identified by OPD personnel and addressed as required by DGO M-3 and Departmental Manual of Rules?
- i. Were there any problematic tactics used?
- j. Were there any training issues, patterns, or concerns identified?
- k. Were there any public safety issues identified?
- l. Were there any other risk issues identified?

Second, the race of subjects of unreported uses of force were compared to the race of subjects of reported uses of force and all arrestees.

Third, a Contributing Auditor analyzed any patterns (i.e., certain officers, squads, supervisors on duty, and/or types of force) related to the incidents that included force which was not reported.

## Scope and Sample

The audit focused on the OPD's reporting of force, usage of portable digital recording devices, and supervision of incidents likely to involve force that occurred in 2018. Incidents involving subjects arrested for allegedly violating one or more of the following California Penal and/or Vehicle Codes were identified.

<b>Statute</b>	<b>Description</b>
PC245 (C)	ADW NOT F/ARM:PO/FIRE: GBI
PC245 (A)(4)	ADW WITH FORCE: POSSIBLE GBI
PC241 (C)	ASSAULT ON PEACE OFF/FF/ETC
PC245 (B)	ASSAULT PERSON WITH A SEMIAUTOMATIC FIREARM
PC245 (A)(2)	ASSAULT WITH FIREARM ON PERSON
PC245 (A)(2)	ASSAULT WITH FIREARM ON PERSON - PISTOL WHIP
PC148 (D)	ATTEMP TO REMOVE/ETC FIREARM FROM, PEACE OFFICER/ETC
PC243 (C)(1)	BATTERY AGAINST EMERGENCY PERSON/ETC
PC243 (C)(2)	BATTERY AGAINST PO
PC243 (B)	BATTERY ON PEACE OFFICER/EMERGENCY PERSONNEL/ETC
PC215(A)	CARJACKING WITH FIREARM
PC25400 (C)(6)	CARRY A LOADED CONCEALED WEAPON ON PERSON
PC25400 (C)(6)(A)	CARRY LOADED CONCEALED WEAPON ON PERSON
PC25850 (A)	CARRY LOADED FIREARM ON/IN PERSON/VEH: PUBLIC PLACE
PC25850 (C)(1)	CARRY LOADED FIREARM W/PRIOR FELONY CONVICTION
PC25800 (A)	CARRY LOADED FIREARM WITH INTENT TO COMMIT A FELONY
PC25850 (C)(4)	CARRY LOADED FIREARM: UNLAWFUL/PROHIBATED POSSESSION
PC25850 (C)(2)	CARRY STOLEN LOADED FIREARM
PC25850 (C)(3)	CRIMINAL STREET GANG MEMBER CARRY LOADED FIREARM
PC422	CRIMINAL THREATS THREATENED CRIME W/INTENT TO TERRORIZE
PC647 (F)	DISORDERLY CONDUCT - ALCOHOL

PC647 (F)	DISORDERLY CONDUCT: INTOX DRUG WITH ALCOHOL
PC647 (F)	DISORDERLY CONDUCT: TOLUENE
PC415	DISTURB THE PEACE
VC2800.2	EVADE P.O.: CAUSING INJURY/DEATH (RENUMBERED-SEE 2800.3)
VC2800.2 (A)	EVADE PO: DISREGARD SAFETY
VC2800.1 (A)	EVADING PEACE OFFICER
VC2800 (A)	FAIL OBEY PO: LAWFUL ORDER
PC245 (A)(1)	FORCE/ADW-OTHER DANGEROUS WEAPON: GBI
PC69	OBSTRUCT/RESIST EXECUTIVE OFFICER-FEL
PC148 (A)(1)	OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY MED TECH
PC148 (A)	OBSTRUCTS/RESISTS PUBLIC OFFICER/ETC
PC212.5 (A)	ROBBERY/INHABITED DWELLING - FIREARM
PC211	ROBBERY-FIREARM

The OIG sampled three groups of incidents likely to involve force as noted:

### **Group 1**

The Lead Auditors reviewed the associated video recordings for the **14 incidents identified by the Independent Monitor** as having unreported uses of force. The time period in which the incidents occurred was from **January 2018 to June 2018**.

### **Group 2**

The Lead Auditors reviewed the documentation (i.e., Crime/Supplemental Reports, Consolidated Arrest Reports, etc.) of **80 randomly selected incidents likely to involve force** in which one or more suspects were arrested. The time-period in which the incidents occurred was from **July 2018 to November 2018**. There were 616 incidents involving one or more of the penal code/vehicle code violations listed above. In 91 incidents, force was reported, so the incidents were removed from the population. The random sample of 80 incidents was selected from the remaining 525 incidents likely to involve force that did not have an associated use of force report (15%).

Based on the circumstances described in the reports, the Lead Auditors reviewed associated video recordings for **17 of the high-risk incidents**, in which the arrests were more probable to have involved a use of force.

### **Group 3**

During the review of the 31 incidents likely to involve force from Groups 1 and 2, four squads were identified as having multiple instances of unreported uses of force, and/or more significant supervisory issues were identified. Additional incidents involving these four squads were selected for review. The Lead Auditors reviewed the documentation (i.e., Crime/Supplemental Reports, Ancillary Documents, Consolidated Arrest Reports, etc.) of **60 randomly selected incidents likely to involve force (15 per squad)** in which one or more suspects were arrested. The time-period in which the incidents occurred

was from **January 2018 to December 2018**. There were 138 incidents involving one or more of the penal code/vehicle code violations listed above. In 31 incidents, force was reported, so the incidents were removed from the population. A random sample of 60 incidents (15 per squad) was selected from the remaining 125 incidents likely to involve force that did not have an associated use of force report (48%).

Based on the circumstances described in the reports, the Lead Auditors reviewed associated video recordings for **16 of the high-risk incidents**, in which the arrests were more probable to have involved a use of force.

A total of 47 incidents likely to involve force were comprehensively reviewed, which involved more than a hundred hours of PDRD footage, dozens of written reports and radio transcripts.

## FINDINGS

### **FINDING #1**

**Uses of force involving weaponless defense techniques and pointing of a firearm at a subject are not always being reported in accordance with Department policy and procedures.**

In 2018, there were 957 incidents involving one or more subjects arrested for the violations listed in the Methodology section, 871 of which had no associated use of force report. OIG reviewed the documentation for 154 incidents and selected 47 for a comprehensive review. Upon review of the associated video recordings for the 47 incidents likely to involve force in which the arrests were more probable to have involved a use of force, there were 17<sup>7</sup> incidents in which the Lead Auditors deemed a reportable weaponless defense technique or pointing of a firearm(s) was used and not reported and documented. Five unreported uses of force involved weaponless defense techniques and 12 involved pointing of a firearm (See Table 1). None of the uses of force appeared to be unreasonable. In one case, the underreporting may have been willful based on comments made by the officer captured on PDRD. All 17 instances were referred to the Internal Affairs Division for further investigation.

There were 26 incidents in which the Auditors deemed no force was used. There was one incident in which an Auditor was unable to determine whether an off-duty police officer who pointed his firearm at a suspect should have completed a Use of Force Report, because OPD's policy, Departmental General Order K-4, *Reporting and Investigating the Use of Force*, is silent on this issue. Lastly, there were three incidents in which the Auditors were unable to determine whether force was used due to the angle and/or quality of the PDRD footage. An "undetermined" finding was established in those instances.

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<sup>7</sup>All 17 incidents in which force was deemed not to have been properly reported and documented were referred to the Internal Affairs Division.

**Table 1: Unreported Use of Force**

<b>Audit Group</b>	<b>Weaponless Defense Techniques</b>	<b>Pointing of a Firearm</b>
<b>Group 1</b> (14 incidents identified by Monitor Jan-Jun 2018)	4	5
<b>Group 2</b> (Jul-Nov 2018)	1	1
<b>Group 3</b> (Select Squads Jan-Dec 2018)	0	6
<b>Total</b>	<b>5</b>	<b>12</b>

**Weaponless Defense Techniques (Defensive Tactics)**

This audit identified five incidents of unreported weaponless defense techniques (i.e., hand/palm/elbow strikes; kicks; take-downs; leg sweeps; arm-bar takedown; and control holds such as escort via elbow, bent wrist, twist lock, and arm-bar hammerlock). One incident involved a takedown of a handcuffed subject. Although a takedown is considered a Level 3 use of force, because it was done on a handcuffed subject, per policy it should have been investigated as a Level 2 use of force, requiring review by the Force Review Board. In this instance, the UOF was unreported.

The other four incidents were Level 3 uses of force which should have been reported per Departmental policy (DGO K-4), and require an investigation of the force used, but not a review by a Force Review Board.

1. Officers were in a foot pursuit of a subject and an officer forcefully pushed the subject, causing him to fall on the ground against a fence. The reporting officer stated in his report “*no known witnesses.*” OIG’s review of the associated video footage identified multiple witnesses on scene when the force in question was used.
2. Officers were attempting to place a subject in handcuffs, and the subject stood up and punched an officer in the face. Another officer wrapped his arms around the subject, physically lifting him off the ground causing them both to fall backwards onto a glass table and then lifted the subject back onto a couch.
3. A detained subject started to run from an officer, and the officer grabbed the subject by the hair and pulled him to the ground. The officer failed to articulate and document in his report that he pulled the subject by his hair.
4. During the search of a subject, the subject turned to run, and the officer grabbed him, causing them both to fall to the ground. The officer also delivered an intentional forearm strike to the subject’s right tricep area while attempting to handcuff the subject.

Although there were additional incidents reviewed that involved physical interactions between officers and subjects, they were not deemed to be reportable uses of force, per Departmental policy. DGO K-04, *Reporting and Investigating the Use of Force*, states that “*a weaponless defense technique control hold*

*applied for handcuffing or escorts that do not result in injury or complaint of injury are NOT reportable uses of force.”* Departmental General Order K-3, which defines Use of Force, states, *“Use of Force, any physical or mechanical intervention used by a member or employee to defend, control, overpower, restrain or overcome the resistance of an individual.”* Therefore, not all uses of force defined in DGO K-3 are required to be reported, per DGO K-4.

This audit also found misalignment in the policy language regarding takedowns, a type of weaponless defense technique. DGO K-3 lists takedowns as a type of weaponless defense technique and DGO K-4 requires the reporting of a Weaponless Defense Technique, including takedowns. However, DGO K-3 and K-4 do not describe what a takedown is, rather takedowns are described in Training Bulletin III-I.1, *Weaponless Defense* leaving its interpretation ambiguous. All three policies should accurately define and describe what constitutes a takedown and ensure clarity on the takedowns that are considered reportable uses of force.

#### **Level 4/Type 22 (Pointing of a Firearm) Use of Force**

There were 12 incidents involving 21 officers who did not report their pointing of a firearm. Except for one incident that occurred in November 2018, all other unreported pointing of a firearm incidents occurred prior to October 2018. In September 2018, the Office of Inspector General was in the process of conducting a review to determine contributing factors for why pointing of a firearm incidents had been on such a steady decline since 2013. Preliminary findings were shared with the Chief of Police and in September 2018, the Chief directed refresher training on the reporting requirements for pointing a firearm at subjects (re-training occurred September and October 2018). The refresher training clarified what is considered a reportable Level 4/Type 22 use of force, and that the low-ready position of a firearm does not automatically mean non-reporting.

Eleven of the twelve unreported pointing of a firearm incidents in this review occurred prior to or at the time of this refresher training, during which time policy, training and monitoring issues are believed to have contributed to potential underreporting of the pointing of a firearm. Therefore, it is expected that this review would identify additional instances of underreporting of the pointing of a firearm, since they occurred prior to any corrective measures taken by the Department.

The OIG’s final report, [\*Audit of the Downward Trend in the Number of Reported Police Officers’ Intentional Pointing of a Firearm at Subjects\*](#), published February 5, 2019, identified possible factors for inconsistent reporting of pointing of a firearm at subjects, including:

- An inadequately designed policy failed to provide sufficient guidance to officers regarding when to report the pointing of the firearm at a subject(s).
- In practice, a police officer’s ***“intention”*** is a dominant factor in determining whether the pointing of the firearm at the subject(s) is reportable, a result of an inadequately designed policy.
- Departmental General Order K-4 does not mandate the documentation of the low ready position, limiting supervisors’ ability to monitor its use.

- There is a lack of a universal definition amongst police officers when determining a reportable pointing of the firearm.
- The sole non-reportable low ready position defined in policy and when to report the pointing of the firearm are not emphasized in police officers' practical firearms training and are not in the practical firearms training curriculum.

Officers not reporting their uses of force when required by policy causes the Department's record of uses of force to be inaccurate. It also causes concern about the frequency of police officers not reporting force used on subjects, something this audit could not capture.

### **Squad Patterns**

During the review of **Groups 1 and 2**, there were four squads that were identified as having more than one incident involving an unreported use of force and/or other issues related to PDRD activation, supervision or training/tactics. Subsequently, a third Group of incidents was reviewed involving these four squads from the time-period of January to December 2018. **Table 2** shows the total unreported uses of force for the four squads.

In the first two Groups of incidents reviewed, **7** of the **11** incidents where force went unreported were attributed to the four squads identified for additional review. In the third Group of incidents, which focused just on the four squads, an additional **5** incidents where force went unreported were identified.

**Table 2: Select Squads – Unreported Uses of Force**

	Number of Pointing of a Firearm Incidents	Number of Weaponless Defense Technique Incidents	Total Number of Incidents
<b>Squad 1</b>	1	0	1
<b>Squad 2</b>	2	1	3
<b>Squad 3</b>	2	1	3
<b>Squad 4</b>	5	0	5

Squads 1 and 2 are patrol squads. Squads 3 and 4 are specialized units that focus on crime reduction and are often involved in the surveillance and apprehension of high-risk suspects. These two squads had two different supervising sergeants during the time-period of the incidents reviewed. For all six sergeants of the four squads reviewed, their time on the Department ranged from 12 to 30 years, and their time in the rank of Sergeant ranged from 2 to 13 years.

**Table 3: Select Squads – Sergeant Tenure and Supervisors/Officers in the PAS Program**

		Number of Years as OPD Officer	Number of Years in Sergeant Rank	Number of Sergeants and Officers in Squad in the PAS Program
<b>Squad 1</b>	<i>Supervisor</i>	28	3	5
<b>Squad 2</b>	<i>Supervisor</i>	18	2	2
<b>Squad 3</b>	<i>Supervisor 1</i>	10	2	1
	<i>Supervisor 2</i>	30	13	
<b>Squad 4</b>	<i>Supervisor 1</i>	12	6	4
	<i>Supervisor 2</i>	16	2	

Data provided by the PAS Unit (Personnel Assessment System) showed that **12** of the **43** officers and sergeants assigned to the four squads were under supervisory monitoring at some point during 2017-2018. For **Squad 1**, which had the highest number of officers in the PAS Program, four officers were under supervisory monitoring due to internal affairs complaints and one officer due to the number of uses of force. For **Squad 4**, which had the next highest number of officers in the PAS Program, all four officers were under supervisory monitoring due to internal affairs complaints.

#### **Finding #2**

***The percentage of African American subjects of force that went unreported is higher than the percentage of African American arrestees.***

There were **5** incidents in which the audit determined a weaponless defense technique should have been reported as a use of force but was not. Within those **5** incidents, **4** subjects were African American (80%) and **1** was Hispanic (20%).

There were **12** incidents involving **19** subjects in which the audit found the pointing of the firearm should have been reported as a use of force but was not. Of the **19** subjects, **17** were African American (89%) and **2** were Hispanic (11%).

When looking at the racial breakdown of all arrestees citywide in 2018 for the types of California Penal and/or Vehicle Code violations selected for this audit, 60% were African American, 24% were Hispanic, 10% were White and 7% were Asian/Other/Unknown (**See Table 4**). When looking at the racial breakdown of subjects of force in 2018 for the same types of criminal violations where force was used and reported, 62% were African American, 20% were Hispanic, 11% were White, and 7% were Asian/Other/Unknown (**See Table 5**).

**Table 4: Racial Breakdown of Arrestees for Select California Penal and/or Vehicle Code Violations in 2018 Citywide**

Race	Number of Arrestees	Percentage
African American	609	60%
Hispanic	242	24%
White	100	10%
Asian	41	4%
Other/Unknown	31	3%

**Table 5: Racial Breakdown of Subjects for which Force was Used and Reported Citywide**

Race	Number of Subjects where force was used and reported	Percentage
African American	61	62%
Hispanic	20	20%
White	11	11%
Asian	6	6%
Other/Unknown	1	1%

When force goes unreported, it inhibits the Department's efforts to accurately assess potential racial disparities in the use of force by the Department.

### **FINDING #3**

**Of the 47 incidents reviewed, 18 incidents included officers not complying with PDRD policy requirements.**

Departmental General Order I-15.1, *Portable Video Management System* requires officers to activate their PDRD when contacting a citizen to confirm or dispel suspicion that the citizen may be involved in criminal activity, detentions and arrests, assessment or evaluation of psychiatric detention, vehicle pursuit driving, serving a search or arrest warrant, conducting searches of people and/or property, transporting detainees, or upon order of a high-ranking member. Deactivation occurs when the event has concluded, a higher-ranking member orders deactivation, officers are discussing administrative, tactical or law information sensitive information away from the citizen, or officers are at a location where they are not likely to have interaction or a chance encounter with the suspect. Personnel are required to document all activations of their PDRD, except for test or accidental recordings.

Upon review of the associated video recordings for the **47** incidents likely to involve force in which the arrests were more probable to have involved a use of force, the lead auditors determined there were PDRD concerns in **19** incidents. However, **18** of the **19** incidents involved officers not complying with PDRD policy requirements. In one incident, an officer's PDRD fell off during a foot chase, which was not a policy violation. There was a total of 31 officers identified as not complying with policy requirements. In nearly all incidents reviewed, there were multiple officers on scene and video footage was located.

Of the **17** incidents where force was underreported, **7** involved officers not complying with PDRD policy requirements. In these **7** incidents, the OIG was able to review the available PDRD footage from other officers' who were on scene to determine force was used.

The table below shows the concerns recorded by the Auditors:

**Table 6: PDRD Issues Identified**

<b>PDRD Issue</b>	<b># of Officers</b>
Unable to locate PDRD footage <sup>8</sup>	13
Did not capture use of force	4
Delayed activation Officer already in contact w/subject(s)	4
Early deactivation No PDRD video of the transport of the suspect to jail.	2
Early PDRD Deactivation at Jail	3
Delayed activation and early deactivation Officer already in contact w/suspect and turned his PDRD off while the detained suspect was irate and still walking around him demanding the return of his ID.	1
Kept turning PDRD on/off during interaction with subject	1
Officers placed PDRD in same police vehicle to monitor subject (Only one PDRD should be in the vehicle to monitor subject.)	3
PDRD lost during foot chase with subject <b>(Not a failure on the part of the officer)</b>	1
PDRD activated but dysfunctional (turned in for repair) <b>(Not a failure on the part of the officer)</b>	1
Not assigned a PDRD since regular assignment is not in Patrol <b>(Not a failure on the part of the officer)</b>	1

Some incidents reviewed involved multiple deactivations and reactivations during the same contact ***for administrative purposes.***

Although not part of the 47 incidents reviewed, an incident identified by the Independent Monitor during their review of January to June 2018 incidents, involved Criminal Investigation Division (CID) officers who are not assigned PDRD because they do not have a field assignment. OIG reviewed this incident, which highlighted concerns about officer who are not assigned PDRDs.

In this incident, the officers made an arrest at the Police Administration Building for obstructing and resisting a peace officer 148(a) p.c. and battery on a peace officer 243(b) p.c., but OIG was unable to review any associated PDRD footage because the officers did not have PDRDs assigned to them. However, the language in their written reports indicated that a physical altercation had occurred.

<sup>8</sup> In the incidents where PDRD footage was unable to be located, the officer's reports indicated they had activated their PDRDs, but the auditors were unable to locate the video footage. The auditors were unable to determine if the missing footage was a result of the officer not activating when they stated they did, PDRD malfunction, or cataloguing problems.

Per the report, a subject entered the Police Administration Building to inquire about her towed vehicle. At which point the subject encountered the investigators in a secured area, not open to the public. The subject was described as *“verbally abusive and demanding in the report,”* and refused the sergeants orders to leave the secure area after the sergeant explained the OPD tow process. The subject continued to ignore the orders given and continuously banged on CID’s door. The sergeant stated that he was fearful due to the manner in which the subject was banging on the door, an investigator opening said door would be struck by the subject. The following was in the report, *“Upon feeling my right hand on her right wrist, the subject swung her right elbow in an upward and backward direction, towards my head. The subject’s elbow struck me in the right shoulder area. I maintained control of the subject’s right wrist and placed my left hand around the subject’s upper back with an open palm.”* The subject was then placed under arrest for obstructing and resisting a peace officer 148(a) p.c. and battery on a peace officer 243(b) p.c. Further, the Sergeant stated, *“I kept the front of the subject’s body against the walls to prevent her from further physical violence, prevent her from escaping from me, and to facilitate her handcuffing...I am not assigned a PDRD...No use of Force...No additional witnesses.”*

The sergeant was the approving reviewer of his own report. A supplemental report written by another CID investigator who witnessed the incident indicated, *“No PDRD issued...No force used or observed.”* OIG also noted the discrepancy of the sergeant listing, *“No additional witnesses,”* even though there was a supplemental report by a CID investigator who was present and witnessed the incident. The supplemental report was reviewed and approved by another supervisor who was not that investigator’s direct report supervisor.

The 47 incidents likely to involve force were chosen based on language in the crime reports suggesting to the auditors that force may have been used, for example:

- Officer grabbed subject’s upper torso and pulled him to the ground
- Officer grabbed subject’s t-shirt collar
- Officer pulled subject out of patrol vehicle ***and “guided, assisted and/or lowered”*** him onto the ground
- Officer stopped car and subject rode his bicycle into his police vehicle

The PDRD violations could have been captured simply by reading the Crime/Supplemental Reports for stops in which no uses of force were reported for arrests that were more probable to have involved a use of force. Such review should have prompted the respective supervisors to review the associated PDRD footage to further verify and confirm the actions taken during an incident. This would afford the supervisor the advantage in determining if officers did not have any video footage; and/or if some officers’ footage showed that they had encounter the subject prior to activating their PDRD; etc. Subsequently, if an officer’s PDRD was not activated or deactivated as per policy, the supervisor would have a chance to detect the violation and correct the officer’s performance.

The Department is hindered in its ability to fully investigate incidents, identify training/tactical issues, or review police procedures, when PDRD footage is unavailable due to:

- officers not complying with PDRD policy requirements (failure to activate when required or deactivating too soon to include multiple instances of deactivations and activations ***“for administrative purposes”***),
- inability to locate PDRD footage, or
- officers not being assigned PDRDs.

#### **FINDING #4**

**Misconduct violations are not always properly identified and addressed in accordance with policy and procedures.**

Upon review of the associated video recordings for the **47** incidents likely to involve force, OIG identified **21** incidents in which potential misconduct occurred, involving allegations of supervision, failures to accept and/or refer a complaint, performance of duties, and underreporting.

- **5** allegations regarding the underreporting of weaponless defense techniques
- **12** allegations regarding the underreporting of pointing of a firearm
- **5** allegations regarding the failure to accept or refer a complaint
- **1** allegation of missing evidence
- **2** allegations of improper vehicle pursuit procedures

These cases were referred and opened by OPD’s Internal Affairs Division to further investigate the alleged misconduct as outlined in the Department’s Manual of Rules as departmental violations.

In one incident reviewed, officers responded to a business in which a subject was under the influence of alcohol and refused to leave. The subject, who was belligerent, was detained and handcuffed and seated in the rear of a patrol vehicle. The sole officer opened the door to advise the subject that he was being placed under arrest. The officer wrote the following in his report, *“S1 was making threats to kill and fight me. S1 used his right leg to kick me once in the chest area, leaving his footprint on my shirt. Based on S1’s violent behavior and level of intoxication, we elected to remove S1 from the back of the patrol vehicle to place him in a “Hobble” restraint. We removed S1 from the back of the patrol vehicle and laid him on the sidewalk.”* The officer wrote *“I did not use or witness any force being used.”* The supervisor responded to the scene. The subject was arrested for 647(f) Public Intoxication and 243(b) p.c.

OIG’s review of this incident’s varying supplemental reports of officers on scene and their associated video footage provided different accounts of what occurred. Also, one officer approved his own supplemental report.

In another incident reviewed, officers responded to an investigation of Domestic Violence. Upon arrival, one officer contacted the male subject as the other contacted the female victim on city streets. As the

officer questioned the male subject, he abruptly fled from the officer on foot. The officer pursued him as the other officer joined in the foot pursuit directly behind him. The pursuing officer stated in his report, *“The subject attempted to flee.... I grabbed for his tee-shirt collar with my left hand.... I ordered him to stop as he began to fall forward into a prone position. I followed the subject to the ground, grabbing his right arm gaining control of it.”*

OIG’s review of the incident’s reports and video footage revealed that a reportable use of force had been used by the officer by the pulling of the subject’s hair, yet the officer failed to document such action. Additionally, both the officer and the cover officer documented in their reports, *“Note: This report was written to the best of my recollection. See PDRD for further details.”* The cover officer wrote in his supplemental report, *“At no point did I observe any uses of force.”* OIG noted that the responding on-scene supervisor was not the officer’s direct supervisor, and the supervisor approving the Probable Cause Declaration and Consolidated Arrest Report prior to the prisoner’s transport to the jail was also not the officer’s direct supervisor. The approving supervisor reviewer of the final report was the officer’s direct supervisor.

In a third incident reviewed, PDRD video footage revealed a reportable use of force in which the officer who applied the force had no use of force report or supplemental report, and the reporting officer whose PDRD video footage revealed the use of force being applied stated *“No UOF used nor witnessed.”* The reporting officer did not list the officer using the force in his/her report.

#### **FINDING #5**

##### **Improvements are needed in the supervisory review of incidents likely to involve force.**

Upon review of the associated video recordings for the **47** incidents likely to involve force, the auditors identified:

- **17** incidents in which force was used and not reported or investigated;
- **18** incidents involving **31** officers not complying with PDRD policy requirements;
- **5** incidents involving allegations of misconduct in violation of the Department’s Manual of Rules; and
- **2** incidents involving collisions occurring during a vehicle pursuit were not properly documented and/or investigated.

The use of force violations could have been identified by supervisors by reviewing the Crime/Supplemental Reports for these high-risk stops and further inquiring with their subordinates, and/or reviewing the associated PDRD footage when the report reads as though there was force used. The auditors did note that to increase the level of supervisory review, in late November 2018, in response to OIG’S preliminary findings from its earlier review of the pointing of a firearm, the Chief published a Special Order requiring supervisory review of PDRD footage for incidents involving Penal Code 69, 148, and 243(b)(c) arrests (threatening an officer, resisting arrest, battery on an officer). The

Special Order (9191) requires sergeants to view video footage from the beginning of the incident to the arrest and annotate their review in the PDRD software system.

In one incident, an officer wrote in his report and ancillary documents (Probable Cause Declaration), *“Officers attempted to grab the defendants right arm while giving him commands to place his hands behind his back but he immediately flexed his arms and began to pull away from officers. I attempted to de-escalate the situation, but the defendant turned towards officers and begun to push the officer who had control of his right arm,”* yet the officer states in his report, *“I did not use or observe any force.”* The supervisor should have questioned how the officer attempted to de-escalate the situation, and ultimately inquired how the officer was able to get the subject to comply with his commands after the subject fled on foot, especially since the incident response included nearly two squads of officers and their supervisors with multiple deployments of departmental rifles and firearms. Considering the subject was arrested for Resisting and Obstructing 148(a) p.c. and Battery on an Officer 243(b) p.c., the supervisor should have reviewed all available ancillary documents and PDRD footage. In this incident, the initial stop of the subject was for a traffic equipment violation. There was no mention of the initial violation reason for the stop in the report and/or the said vehicle’s registration status, no citation was given to the subject and the status of the subject’s vehicle was left unknown. A more detailed review by the supervisor would have presented an opportunity to identify any unreported uses of force and correct the officer’s performance.

In another incident, the officers conducted a car stop on a subject for a traffic equipment violation. During the stop, the officers elected to investigate further due to the discovery of suspected narcotics. The driver was removed from the vehicle and subsequently fled on foot from the officers. In the officer’s report, the officer states, *“During the struggle, we assisted the subject to the ground to gain control of the subject’s hands as he continued to violently pull away from us to prevent us from placing him in handcuffs. After 1 minute of struggling with the subject, we were able to overpower the subject and place him in handcuff’s without using force.”*

In this same incident, there were varying statements from the main report and the supplemental reports in which evidence was documented, but OIG confirmed during the audit that the evidence was not submitted into the Department’s Property and Evidence Unit nor Criminalistics Division. In addition, the pursuing officer documented in his supplemental report *“I attempted to reach out and push him from behind, so he would lose balance.”* This officer approved his own supplemental report as the reviewing supervisor. Another supplemental report of an officer who was on scene was still in “DRAFT” status as of this audit, having yet to be reviewed and approved by any supervisor. That “DRAFT” was completed by the officer approximately 24 hours after the incident. The supervisor was on the scene of the incident.

Also, in this incident, the transporting officers failed to summon a supervisor to the jail upon the subject’s request. The subject was arrested for obstructing and resisting a peace officer 148(a) p.c., failing to obey a peace officer 2800 V.C., and driving without a California Driver’s License 14601.1 (a) C.V.C.

In a third incident, the OIG reviewed an attempted traffic enforcement stop of a vehicle observed blocking traffic. An initial DMV file check of the vehicle did not match the vehicle in question. Officers attempted to stop the vehicle by activating their patrol vehicle lights and siren, at which time the driver failed to yield and evaded officers. Officers did not continue to pursue due to the Department's vehicle pursuit policy and deactivated their lights and siren, while communicating the subject's direction of flight to the OPD's helicopter which followed the vehicle outside of the city of Oakland. The officers initiating the stop followed and ended up outside the city of Oakland as well, and ultimately initiated a foot pursuit. Video footage reflected the officer having his firearm drawn during the foot pursuit. The subject was subsequently taken into custody by an uninvolved citizen who assisted officers. The supervisor did not approve the arrest where the subject was taken into custody. A failure to accept and refer a complaint and an unreported use of force were noted by OIG. The report and the ancillary reports noted, "*No use of force was used or observed*" and "*No known witnesses located.*" During this incident, the OPD helicopter advised over the police radio that one subject was being detained at gunpoint. The supervisor reported to have been on scene in the report was not the same supervisor who reviewed and approved the report.

OIG also identified instances in which training and tactics used by officers were left unaddressed by the approving and reviewing supervisor. For example, officers were dispatched to a disturbance at a convenience store in which the subject refused to leave and was armed with a knife. Despite both officer's ability to command, control and contain the subject without force, both officers displayed their Electronic Control Weapons (ECW's), with no lethal cover.

In another instance, officers elected to handle administrative functions during an escalating event leaving officers vulnerable to a violent confrontation without scene management and containment.

### **Additional Observations**

- There were three incidents in which the respective police officer did not complete a Field Investigation Report and/or Stop Data Form.
- There were Crime/Supplemental Report writing issues in eight incidents (i.e., a police officer did not complete a Crime/Supplemental Report when he/she should have; the wrong date was in the report; preliminary investigation not thorough, etc.).
- There was one incident in which there were discrepancies between an associated Vehicle Collision Report and the Crime/Supplemental Report.
- There was one incident in which the Lead Auditor was unable to locate an Operations Plan to verify a police officer was working as part of an arrest team.
- There were some incidents in which officers were not providing simple directions or explanations of their actions to subjects, which can result in encounters escalating to the need for force. For example, the officers weren't communicating clearly with the subjects about why they had been detained and what they needed to do to comply, including the consequences for choosing not to comply.
- There was one instance in which the police officer(s) failed to have a supervisor respond to the scene to approve an arrest for a suspect who allegedly violated Penal Code 243(b) and the

associated Consolidated Arrest Report and the Probable Cause Declaration. DGO M-18, III, p.3 of 9, (Procedures) (A), (1) outlines an arresting officer's requirements as it pertains to arrests of Felonies, Possession of Narcotics, Resisting Executive Officers, 69 p.c., Resisting Peace Officers, 148(a)(1) p.c. and Battery Against a Peace Officer, 243(b)(c) p.c., which requires officers who makes probable cause arrests for any of the offenses listed to request their immediate supervisor to respond to the scene and obtain an arrest approval prior to transporting the arrestee. OIG determined that the sole offense of 148(a)(1) p.c. populated the requirement of supervisory approval within the Consolidated Records Information Management System (CRIMS), whereas Penal Codes 69 and 243(b)(c) do not, allowing officers to bypass the supervisor review and approval prior to transporting a subject to jail. To correct this issues, OIG facilitated the re-instatement of the Department's Liaison within the Criminal Investigations Division with Alameda County's, CRIMS to incorporate all said offenses for the OPD so that the supervisor's review and approval populates in all instances noted above, avoiding a transport without notifying a supervisor.

- Most officers observed in the PDRD videos were reviewed by the contributing auditors to be polite and respectful to the citizens they encountered. However, officers should be reminded to adhere to the tenants of Procedural Justice<sup>9</sup>.

## Recommendations

1. The Department should revise and retrain DGO K-3 *Use of Force* and DGO-K-4 *Reporting and Investigating the Use of Force*, to address the following:
  - a. Reduce ambiguity related to the "low-ready" and "intentional" pointing of a firearm
  - b. Clarify weaponless defense techniques that are reportable, specifically "take downs"
  - c. Ensure that all force outlined in DGO K-3 and Training Bulletin III-I.1, *Weaponless Defense* are aligned with reportable force outlined in DGO K-4
  - d. Incorporate post use of force positioning and monitoring which outlines what members shall do after gaining control of a subject
  - e. Clarify reporting requirements for officers that use force off-duty
2. The Department should reinforce and clarify PDRD policy requirements for all field personnel, with emphasis on proper activations and deactivations, to include "*for administrative purposes*" and the articulation and documentation of when these instances occur. Also, PDRD violations should be recognized as serious policy violations. Patterns of PDRD violations and intentional violations should be disciplined according to policy.
3. The Department should provide additional training to supervisors and commanders on conducting critical reviews of incidents likely to involve force.
4. The Department should equip all sworn personnel with Portable Digital Recording Devices (PDRD's), which includes investigative units such as the Criminal Investigation Division, to assist in mitigating departmental risks and liabilities.

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<sup>9</sup> Procedural Justice training is provided to all employees, and focuses on the four tenants of voice, neutrality, respect and trust.

5. The Department should codify Special Order 9191, dated 27 Nov 18 into DGO M-18 as it pertains to additional audit reviews of PDRD video footage for incidents involving 69 p.c., 148(a)(1) p.c., and 243(b)(c) p.c.
6. The Department should incorporate technology to capture, record and report firearm and holster telemetry, to track instances of officers pulling their firearms out of their holsters and where their firearm is pointed.
7. The Department should provide departmental social tactics training. The OIG also recommends that the Department work to ensure that officers properly understand that courtesy in all public contacts encourages understanding and cooperation. The most desirable method for effectuating an arrest is where a suspect complies with simple directions given by an officer. When officers are confronted with a situation where control is required to effect arrest or protect the public's safety, officers should attempt to achieve control through advice, warnings and persuasion. This could be implemented by updating the Department's current procedural justice training.
8. The Department should incorporate a Train the Trainer course such as the Police Executive Research Forum's (PERF), Integrating Communications, Assessment, and Tactics (ICAT) training for defusing critical incidents. This will allow for frequent and robust training to occur within the Department and allow for Commanders and Supervisors to make proactive assessments in changes of behavior and implement strategies to address performance and adhere to National Law Enforcement Best Practices more frequently.
9. The Department should provide training commensurate with the responsibilities of Specialized Units (e.g., Special Resource Section) to all officers, supervisors and commanders newly assigned to those units.
10. The Department should clarify in policy command/supervisory authority and responsibilities with regards to Special Resource Section (SRS) Teams. This will ensure that the direct supervision of subordinates and operations are adequately and properly controlled and commanded always by the appropriate SRS Command/Supervisors and not solely relinquished to the on-duty Watch Commander who is frequently unaware of SRS targets and operations. The Department should also reaffirm the acquisitions of all Operations Plans and Risk Assessments be provided to the On-Duty Watch Commander in advance for situational awareness within the Bureau of Field Operations, as per policy.
11. Officers who are working in a squad in which they are in an overtime assignment and/or are not normally assigned shall complete all in-custody offense reports and Use of Reports prior to the end of their shift and ensure that they are reviewed and approved by the scene/approving/reviewing Supervisors. The Department should clarify in policy the continuity in supervision in all categories to ensure accuracy, consistency and to readily address issues and concerns with regards to supervisory reviews and approvals.
12. The Office of Inspector General should conduct a follow up audit of force reporting within one year of publishing this report. In addition, the OIG should conduct annual use of force reviews.

In addition, OIG Recommends that the Department issue **policy reminders** to ensure compliance.

1. Officers should be reminded that DGO K-4 mandates that reports shall not contain “boilerplate,” “pat,” or “canned” language without descriptive or explanatory details of action. Examples of this language include, “assisted to the ground,” “guided to the ground,” “lowered to the ground.” A report containing boilerplate language lacking detail may render the account of an incident as insignificant or commonplace.
2. Supervisors should be reminded that in addition to DGO K-4, DGO M-18, *Probable Cause Arrest Authorization and Report Review* requires them to review and approve all offense reports, including ancillary documents, to ensure reports articulate specific details unique to the incident of arrest and do not contain “boiler plate,” “pat,” or canned language.”
3. Supervisors should be reminded that Arrest Approvals in the field during investigative call outs are required for all applicable arrests enumerated in DGO M-18, III.A.1.a-f, whether, or not it involves a CID call out. Likewise, a sergeant is required to complete all requirements listed in DGO M-18, III.B, whether, or not it involves a CID call-out. During a call-out, the responsibility for arrest approval remains with the immediate supervisor unless a CID sergeant responds to the scene and agrees to assume the responsibility. The CID sergeant shall then complete all requirements listed in DGO M-18, III.B, prior to the arrestee being transported from the location of arrest. Officers shall not transport prisoners to CID prior to receiving arrest approval.

## Follow-up Review

After the OIG’s preliminary findings, and since the Chief directed additional training on the reporting of the pointing of a firearm in September and October 2018, there has been a significant increase in the number of reported uses of force; most impacted is the Level 4/Type 22 (*pointing of the firearm*). The number of reported uses of force (all Levels) increased by nearly 300% between **January-May 2018 and January-May 2019**. While this suggests a change in practice of reporting uses of force, OIG conducted a follow-up review of the same types of incidents likely to involve force, where no force was reported, in **February and March 2019** to determine if there was a continued issue with underreporting.

Five reports were selected from a random sample of 30 incidents. In one of the five incidents, the auditor found an unreported pointing of a firearm. In another incident, the auditor found that a sergeant did not review PDRD footage for a 243(b) arrest, as required by Special Order 9191, *Additional Audit of PDRD Video*, dated November 27, 2018. Also, two incidents involved PDRD activation issues (non-activation and delayed activation).

## Conclusion

This audit found similar issues with underreporting force as identified in OIG’s recently published *Review of OPD’s Downward Trend in the Number of Reported Police Officers’ Intentional Pointing of a Firearm at Subjects* (**See Appendix E for the Command Response to OIG’s audit**). As a result of OIG’s earlier review and the Independent Monitor’s review, the Department implemented additional training on force reporting; published a Special Order requiring supervisor review of PDRD footage for incidents involving

Penal Code 69, 148, and 243(b)(c) arrests; and drafted a Special Order (Special Order 9196) clarifying what types of force are reportable. These steps were taken in the fourth quarter of 2018. Beginning in October 2018, the number of reportable uses of force increased significantly.

Although this audit was more detailed and larger in scope, some of the findings and recommendations mirror what was found in OIG's earlier review of pointing of a firearm at subjects. This audit also identified an additional force type that was being underreported (weaponless defense techniques), which has been addressed in the Department's draft Special Order 9196 on reportable force types.

In addition, this audit identified improvements needed in the supervisory review of incidents likely to involve force. Specifically, the Department needs to address PDRD activations to ensure the entire incident is properly captured on video, and administrative deactivations are documented along with the reason(s) they were necessary. Delays in activations and an inordinate number of administrative deactivations hampers the Department's efforts to gather complete evidence. The departmental report writing and supervisory reviews of such also need to be addressed. The Department must take steps to improve the quality and accuracy in these areas and provide training to include reinforcement measures in instances of policy violations. Supervision should be designed to reinforce respectful policing, emphasizing the importance of personal involvement of police leadership at every level to encourage respectful policing that minimizes the use of force. Accountability measures should continue, given that OIG's follow-up review found one additional use of force that went unreported out of five incidents reviewed.

## **APPENDIX A: The Four Levels of Force**

### **Departmental General Order K-4: Reporting and Investigating the Use of Force, pgs. 4-7**

There are four levels of force, with **Level 1** being the most serious (any use of force resulting in death; any force which creates a substantial risk of causing death; serious bodily injury; and any intentional impact weapon strike to the head). **Level 2** includes any strike to the head (except an intentional strike with an impact weapon); a carotid restraint that does not result in the loss of consciousness; use of impact weapons; police canine bites; and any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first aid) or hospital admittance. **Level 3** includes the use of pepper spray or other chemical agent; a Taser; a baton or any impact weapon; and weaponless defense techniques (i.e. hand/palm/elbow strikes, kicks, leg sweeps, and takedowns). Lastly, **Level 4** includes the intentional pointing of a firearm; weaponless defense techniques (i.e. hair grab, pressure to mastoid or jaw line; and shoulder muscle grab); a weaponless defense technique control hold (i.e., an elbow escort, twist lock, arm-bar, or bent wrist); and a canine deployment in which a suspect is located by the canine but no bite occurs.

### **Level 4 Force Incidents**

A Level 4 use of force is a self-reported use of force. When OPD personnel use a Level 4 use of force on a subject(s), they shall notify and brief their respective supervisor immediately or as soon as practical. This notification shall take place before the member(s) clears the call in which the use of force incident took place. Supervisors are not required to respond to the incident. The employee using force completes a Use of Force report. The Use of Force Report or an attached Offense/Supplemental report shall include the initial reason for the police encounter, the circumstances that resulted in the use of force, articulation of the reasonableness of the force and a detailed description of the force used. The report is reviewed by the employee's supervisor and first level Commander to ensure completeness, accuracy and quality.

### **Level 3 Force Incidents**

A Level 3 use of force requires a supervisor or commander to review the force incident to assess the appropriate reporting level. When OPD personnel use a Level 4 use of force on a subject(s), they shall notify and brief their respective supervisor immediately or as soon as practical. The supervisor shall respond to the location of the incident; discuss the general circumstances of the incident with the involved personnel and witnesses to assess the appropriate reporting level; and conduct a personal interview with the subject(s) upon whom the force was used at the scene. The supervisor assesses any complaint of injury and considers it as a factor toward elevating the Level 3 force to a Level 2 force investigation.

The supervisor also prepares a Use of Force Report, to include documentation of the investigative steps taken, assessment of the evidence, compliance recommendations, and any identified training or tactical issues. The report also includes a Chronological Activity Log and Use of Force Checklist; a copy of the appropriate report (e.g. Crime Report or [Field Interview Report]); and copies of ancillary documents, if necessary (e.g., statements, Supplemental Reports, Technician Report, the detail, CAD purge, available

medical information obtained, and photographs, if available). The Use of Force report is reviewed by the chain of command, up to the Division Commander.

**Level 2 Force Incidents**

A Level 2 use of force requires the same steps as a Level 3 use of force, with some additional steps included. A Level 2 use of force investigation requires that all officers using force or witness to the use of force are separated and personally interviewed. The Use of Force report is reviewed by the chain of command, up to the Division Commander, and heard by a Force Review Board.

**Changing Force Investigation Levels**

The responding on-scene supervisor or commander may authorize a Level 3 use of force incident to be reported as a Level 4 when there is no injury to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance, allegation of misconduct, and no indication the use of force was out of policy.

Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first aid) or hospital admittance, and any Level 3 use of force used on or applied to a restrained subject, are investigated, at minimum, as a Level 2 use of force. Personnel shall request medical service without delay when a subject has visible injuries, or the subject has a complaint of injury.

If any force investigation indicates misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally initiate an internal investigation in accordance with the provisions of DGO M-3.

If any force investigation indicates criminal misconduct, the supervisor or commander shall conduct, at a minimum, a Level 2 force investigation and additionally make the proper notifications in accordance with the provisions of DGO M-4.1, *Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel*, effective date September 18, 2018.

Supervisors and commanders have the discretion to elevate any level of force investigation in order to conduct a more thorough investigation of the incident. The Watch Commander shall approve elevating a force investigation to a Level 1.

## **APPENDIX B: List of References**

1. Departmental General Order I-15.1, *Portable Video Management System*, effective July 16, 2015
2. Departmental General Order J-4, *Pursuit Driving*, effective August 25, 2014
3. Departmental General Order K-3, *Use of Force*, effective October 16, 2014
4. Departmental General Order K-4, *Reporting and Investigating the Use of Force*, effective October 16, 2014
5. Report Writing Manual Insert U-1, ***Use of Force Report (Level 1-3)***, effective December 14, 2015
6. Report Writing Manual Insert U-2, ***Level 4 Use of Force Report***, effective May 27, 2010
7. Departmental General Order M-3, *Complaints against Departmental Personnel or Procedures*, effective December 22, 2017
8. Departmental General Order M-18, *Probable Cause Arrest Authorization and Report Review*, effective November 13, 2014
9. Training Bulletin III-I.1, *Weaponless Defense*, effective date December 13, 2011
10. Training bulletin III-B.2, *High-risk Vehicle Stops*, dated September 18, 2001
11. Department General Order M-4.1, *Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel*, effective date September 18, 2018
12. Audit of the Downward Trend in the Number of Reported Police Officers' Intentional Pointing of a Firearm at Subjects
13. 58<sup>th</sup> Report of the Independent Monitor for the Oakland Police Department

## **APPENDIX C: Referenced Policies**

### **Probable Cause Arrest Authorization and Report Review**

DGO M-18, *Probable Cause Arrest Authorization and Report Review*, effective date November 13, 2014, requires that officers who make a probable cause arrest for any of the following offenses shall request their immediate supervisor respond to the scene and obtain arrest approval prior to transporting the arrestee:

- a. Felonies;
- b. Arrests for possession of narcotics, drugs, or marijuana if the arrestee is to be transported to jail for possession of narcotics, drugs or marijuana;
- c. Resisting Executive Officers [Penal Code (PC) Section 69];
- d. Resisting Peace Officers [PC Section 148(a)(1)]; and
- e. Battery Against a Peace Officer [PC Section 243(b) or (c)].

Officers who make any arrest involving an investigated use of force shall request their immediate supervisor to the scene and obtain arrest approval prior to transporting the arrestee unless a medical necessity requires the arrestee be transported prior to the supervisor's arrival.

Supervisors shall respond to the scene of any arrest or use of force. If the scene is not stable or safe, or it is impractical to respond, supervisors shall arrange to meet with the arresting officer at another location without unnecessary delay. The supervisor shall ensure that the reason for the change of location is documented in the offense report narrative.

Supervisor's responding to an arrest involving an investigated use of force shall: 1) Ensure that medical attention, if needed, is provided in a reasonable amount of time 2) Ascertain the cause of any injuries and investigate any allegation of a use of force; and 3) Ensure that the arrestee's injuries and/or complaints of pain are documented on the PC Dec<sup>10</sup>/Juvenile Record and/or other appropriate report.

Supervisors shall review the specific facts articulated by the arresting officer justifying the arrest (and detention if applicable) as documented by the arresting officer on the PC Dec or Juvenile Record and determine whether reasonable suspicion for the detention and/or probable cause for the arrest exists.

Supervisors shall either approve or disapprove arrests without unnecessary delay. Upon review, if a supervisor determines that probable cause exists but has not been properly articulated, they shall direct the arresting officer(s) to properly document the specific facts justifying the arrest on the PC Dec/Juvenile Record.

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<sup>10</sup> A Probable Cause Declaration (PCD or PC Dec) provides a brief synopsis containing factual and conclusion statements of the incident to support the arrest or the probable cause for an arrest submitted for a complaint with the District Attorney's Office or Juvenile Probation (DGO E-7, *Probable Cause Declaration*, effective date July 15, 2011).

**Sergeants' Responsibility to Review Police Officers' Portable Digital Recording Device for Arrests/Incidents Involving Penal Code §§ 69, 148, and 243(b) and/or (c)<sup>1112</sup>**

As a result of the OIG's briefing to the Chief of Police of their preliminary findings during the *Audit of the Downward Trend in the Number of Reported Police Officers' Intentional Pointing of a Firearm at Subjects*, the Chief of Police issued Special Order<sup>13</sup> 9191, *Additional Audit of PDRD Video*, dated November 27, 2018 (See Appendix F for Special Order 9191), which states:

*All Sergeants are required to audit the PDRD video of arrests/incidents involving 69PC, 148PC, and 243(b)/(c)PC arrests. Sergeants are required to view video footage from beginning of the incident to the arrest. The Sergeant shall annotate their view of the PDRD footage in the "Comment" area of the VIEUVU VERIPATROL software system.<sup>14</sup>*

*Sergeants shall continue to respond to and approve arrests for all 69PC, 148PC, and 243(b)/(c)PC arrests. Sergeants shall continue to conduct monthly PDRD audits of each officer under their command. Sergeants shall also continue biweekly meetings with each officer under their command.*

*Like use of force incidents, Sergeants shall be required to view the PDRD footage within two (2) business days of the incident.*

**Portable Digital Recording Devices (also known as body worn cameras)**

Departmental General Order I-15.1, *Portable Video Management System*, effective July 16, 2015, states that the OPD has adopted PDRD technology because of its flexibility to capture audio/video evidence and enhance the Department's ability to conduct criminal and administrative investigations and to review police procedures and tactics. All personnel in an assignment with primarily field-based responsibilities, as determined by the Chief of Police (COP), are assigned a PDRD for the duration of the assignment. Other personnel, as determined by the COP, may also be assigned a PDRD. The policy addresses when police officers are to activate and deactivate their PDRDs.

**Section II.A.**

Members shall activate their PDRD under any of the following circumstances:

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<sup>11</sup> Although DGO M-18, *Probable Cause Arrest Authorization and Report Review* (effective date November 13, 2014), requires supervisors to respond to the scene of Penal Code §§ 69, 148, and 243(b) and/or (c) arrests and approve said arrests prior to the arrestee being transported, prior to SO 9191, policy did not require supervisors to review PDRD video of arrests involving Penal Codes 69, 148, and 243(b) and/or (c).

<sup>12</sup> See Appendix D for Definitions of Penal Codes 69, 148, and 243(b)(c).

<sup>13</sup> A Special Order of the Chief of Police (SO) is defined as a directive from the Chief of Police which sets forth official policy modifications until such revisions can be incorporated into a permanent departmental directive (i.e., Departmental General Order, Training Bulletin, Report Writing Manual, or Manual of Rules). An SO that modifies a specific permanent departmental directive shall terminate when incorporated into the referenced directive unless otherwise designated.

<sup>14</sup> The software OPD uses to view its officers' PDRD footage.

- Citizen contacts to confirm or dispel a suspicion that the citizen may be involved as a suspect in criminal activity;
- Detentions and arrests;
- Assessment or evaluation for a psychiatric detention;
- Involved personnel as defined by Departmental General Order J-4, Pursuit Driving, during a vehicle pursuit;
- Serving a search or arrest warrant;
- Conducting any of the following searches or a person and/or property;
  - a) Incident to arrest
  - b) Cursory (i.e., pat down or limited weapons search);
  - c) Probable cause;
  - d) Probation or parole;
  - e) Consent; or
  - f) Inventory.
- Transporting any detained or arrested citizen (excluding prisoner wagon transports); or
- Upon the order of a higher-ranking member.

Members shall activate their PDRD ***prior*** to initiating the circumstances enumerated in [Section] II.A above. Members ***shall not*** deactivate their PDRD when it is activated as required by this policy ***until one*** of the following occurs:

- Their involvement in the citizen contact, arrest or detention has concluded or becomes a hospital guard;
- They receive an order from a higher-ranking member;
- They are discussing administrative, tactical or law enforcement sensitive information away from the citizen;
- They are at a location where they are not likely to have interaction or a chance encounter with the suspect (e.g. outer perimeter post, traffic control post, etc.);
- The searches requiring activation...have concluded and the member believes he/she will have no further interaction with the person...

**After a member deactivates [his/her] PDRD, it is [his/her] responsibility to ensure [he/she] reactivates [his/her] PDRD should the circumstances require it.**

### **Section III.C**

Personnel are required to document and explain in one of the reports (crime report, consolidated arrest report, juvenile record, field interview, CAD notes, or use of force report) any delayed or non-activation of their PDRD when PDRD activation was required.

## **APPENDIX D: Definition of Penal Codes 69, 148(a)(1) and 243(b)(c)**

### **Penal Code 69:**

Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law, or who knowingly resists, by the use of force or violence, the officer, in the performance of his or her duty

### **Penal Code 148(a)(1):**

Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed

### **Penal Code 243(b)(c):**

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, nonsworn employee of a probation department, or a physician or nurse engaged in rendering emergency medical care

(c) (1) When a battery is committed against a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a nonsworn employee of a probation department, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim

## APPENDIX E

### Department Response to OIG's Audit of the Downward Trend in the Number of Reported Police Officers' Intentional Pointing of a Firearm at Subjects

#### CITY OF OAKLAND

##### Memorandum

**TO:** City Administrator's Office  
**ATTN:** Sabrina Landreth  
**FROM:** Chief Anne Kirkpatrick  
**DATE:** 28 Jan 19

**RE:** Command Response to Level 4 / Type 22 OIG Audit

The Department reviewed the Audit report titled *Audit of the Downward Trend in Police Officers' Intentional Pointing of Firearms at Subjects*, completed by the Office of Inspector General (OIG). We appreciate the efforts of the OIG to complete this important review. The Department acknowledges the control weaknesses which were present in our identified policies and practices, and we are committed to implementing solutions to correct the identified issues.

In the Spring of 2018, the Independent Monitoring Team (IMT) and the Office of Inspector General (OIG) noted a significant reduction in the reporting of Level 4 / Type 22 (Pointing of a Firearm) uses of force.

High or low aggregate data serve as a pointer to look for a cause. In this case, were the low numbers for Level 4 / Type 22 uses of force reporting due to willful underreporting to avoid PAS thresholds or burdensome paperwork (the causal factor) or were the low numbers due to such factors as new de-escalation training, a woefully inadequate PRIME system or policy failure and the like? A formal audit was opened to answer these questions.

However; before the completion of this audit in September 2018 and after hearing OIG's preliminary audit findings, at my direction the Training Division conducted a refresher line up training for all Sworn personnel assigned to the Bureau of Field Operations (BFO) to clarify policy and expectations regarding the intentional pointing of the firearm and its required reporting as outlined in Departmental General Order K- 4 (DGO K-4). DGO K-4, which guides the reporting of the Level 4 / Type 22 was implemented on December 17, 2012. Since that time, OPD has hired 488 new police officers. Our Bureau of Field Operations is staffed with approximately 260 police officers. Due to attrition, I wanted to ensure that my expectations were clear with regards to what is a reportable pointing of a firearm. All new police officers are assigned to the Bureau of Field Operations.

The Audit identified six significant factors that contributed to the downward trend in the reported uses of force. Four of the six factors lie with a policy failure. One had to do with a training failure and one had to do with the low threshold triggers used as an early warning indicator.

Based on the findings of this audit, there is underreporting. This audit discovered several instances in which officers failed to properly report the pointing of a firearm. Although the auditor points to policy failures and training issues as the primary underlying cause of the failures, we know that there is willful reporting.

On the recommendation for policy update of DGO K- 4, the Police Commission has oversight of this policy and OPD intends to work collaboratively with the Commission on any policy changes involving use of force. To this end, the Department is working with the Commission to schedule meetings with the Commission's ad hoc policy committee.

Additionally, supervisors are now required to audit PDRD video of arrests/incidents involving 69PC, 148PC, and 243(b)&(c)PC within two business days of the incident.

Lastly, OIG has initiated a more comprehensive review of the reporting of all types of force, the results will be included in a future report.



Anne Kirkpatrick  
Chief of Police  
Oakland Police Department

## APPENDIX F

### Special Order 9191: Additional Audit of PDRD Video

OFFICE OF CHIEF OF POLICE  
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER 9191

TO: All Commanders and Sergeants

SUBJECT: Additional Audit of PDRD Video

EFFECTIVE DATE: 27 Nov 18

TERMINATION: Upon Update of Policy

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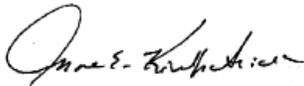
Recent audits conducted by the OIG and IMT revealed that there has been some potential use of force incidents not reported in accordance with DGO K-04. Frequently, the potential lack of reporting come from incidents involving 69PC, 148PC, and 243(b)&(c)PC arrests.

All Sergeants are required to audit the PDRD video of arrests/incidents involving 69PC, 148PC, and 243(b)&(c)PC arrests. Sergeants are required to view video footage from beginning of the incident to the arrest. The Sergeant shall annotate their view of the PDRD footage in the "Comment" area of the VIEVU-VERIPATROL software system.

Sergeants shall continue to respond to and approve arrests for all 69PC, 148PC, and 243(b)&(c)PC arrests. Sergeants shall continue to conduct monthly PDRD audits of each officer under their command. Sergeants shall also continue bi-weekly meetings with each officer under their command.

Like UOF incidents, Sergeants shall be required to view the PDRD footage within 2 business days of the incident.

By order of



Anne E. Kirkpatrick  
Chief of Police  
Oakland Police Department