

Bureau of Organizational Development
Integrity Section

25 October 2017

TO: Barbara J. West
Chief
Bureau of Organizational Development

FROM: Karyn Murphy
Captain #19
Integrity Section

SUBJECT: Audit Report

This report is submitted pursuant to Section II.3(b) of the “Investigatory Stop and Protective Pat Down Settlement Agreement” dated 05 August 2015, which requires quarterly or semi-annual audits by CPD headquarters staff of CPD investigatory stop and protective pat down practices. These audits shall include examination of (i) the narrative sections of a statistically representative sample of individual Investigatory Stop Reports to determine whether they state legal grounds for the investigatory stop and/or protective pat down; (ii) records of supervisory corrections or rejections of Investigatory Stop Reports to identify officers who repeatedly fail to properly document investigatory stops and/or protective pat downs, or who conduct investigatory stops and/or protective pat downs without the requisite reasonable suspicion; and (iii) CPD documentation of civilian and internal complaints relating to investigatory stops and/or protective pat downs. The steps the Integrity Section has taken and practices and procedures it has implemented to fulfill these requirements with regard to ISRs submitted between 01 January and 30 June 2017 are described below.

(1) Integrity Section Audits of Individual Investigatory Stop Reports

Each day, the Integrity Section reviews a random sample of at least 10 percent of ISRs that have been placed by reviewing supervisors in “Approved” status in the ISR Database to confirm that they appropriately document RAS for the investigatory stop and any protective pat down and are otherwise completed correctly. When the Integrity Section reviews an ISR, it reviews the full history – including all supervisory rejections and corrections – of the ISR. For 01 January through 30 June 2017, the Integrity Section reviewed 6322 (13%) of the 50175 ISRs

placed in "Approved" status and determined that 1285 (or approximately 20% percent) were deficient.

194 of the 1285 ISRs were identified as deficient because of administrative deficiencies. Administrative deficiencies commonly noted by the Integrity Section included:

- Failing to check the box indicating that a receipt was provided after performing a pat down, or checking the box indicating that a receipt was provided where no pat down or search was performed.
- Failing to state the disposition of the stop (including whether any law enforcement action was taken) in the appropriate field.
- If the investigatory stop results in charges being filed, failing to list the charges in the appropriate field.
- When an ISR documents a dispersal pursuant to the gang- or narcotics-related loitering ordinances, failing to provide a hotspot and/or dispersal number in the appropriate field, or providing an incomplete hotspot and/or dispersal number.
- Failing to correctly differentiate between a custodial search and a protective pat down, and to check the appropriate box.
- Failing to cross reference associated ISRs in the appropriate field on the ISR form.
- Failing to complete one or more required checkboxes.
- Including poorly constructed sentences or repeated misspellings in the narrative.

715 of the 1285 ISRs were identified as deficient because either the ISR failed to state RAS for the investigatory stop and/or any pat down, or failed to state probable cause for any search. Most commonly, the ISR failed to state RAS for the pat down by stating, for example, that "the protective pat down was conducted for officer safety reasons" without articulating further justification for the pat down.

The remaining 376 of the 1285 ISRs were identified as deficient because they documented a stop of an on-view violation that did not result in a pat down and/or search, and therefore the ISR did not need to be completed under then-existing Department policy. Department policy was updated on 10 July 2017 to require that such stops be documented on an ISR when no other document captures the reason for the detention.

The Integrity Section's finding that approximately 20% of the ISRs it reviewed for the 1 January - 30 June 2017 reporting period were "approved in error" represents an approximately 5% increase over the prior reporting period (1 July 2016 - 31 December 2016). The Integrity Section believes this to be attributable to the fact that, throughout the 1 January - 30 June 2017 reporting period, the Integrity Section identified as deficient any ISR that documented a stop of an on-view violation that did not result in a pat down and/or search and therefore did not need to be completed under then-existing Department policy. This constituted approximately 29% of the ISRs that the Integrity Section identified as deficient for the 1 January - 30 June 2017 reporting period. In other words, excluding those ISRs that the Integrity Section determined did not need to be completed under then-existing Department policy, the Integrity Section determined that approximately 12% of the ISRs it reviewed for the 1 January - 30 June 2017 reporting period were "approved in error." The Integrity Section anticipates that, with the 10 July 2017 change in Department policy regarding documentation of on-view violations, there will be a decline in the number of ISRs that the Integrity Section identifies as "approved in error" in future reporting periods.

(2) Integrity Section Audits of Arrest Reports

The Integrity Section is in the process of reviewing all arrest reports associated with gun and robbery charges that were submitted between 01 January and 30 June 30 2017, to confirm that an ISR was completed if needed. Thus far, the Integrity Section has reviewed arrest reports submitted between 01 January 1 and 30 April 2017. The Integrity Section has reviewed 1951 arrest reports and determined that in 103 arrests an ISR should have been completed but was not.

(3) Corrective Measures Undertaken by the Integrity Section

The Integrity Section has undertaken the following corrective measures to address the deficiencies identified during its audits:

- The Integrity Section used the Investigatory Stop Audit Report to record its findings that an ISR was approved in error, to notify the ISRs author and reviewing supervisor of its findings, and to request that the reviewing supervisor report to the Integrity Section regarding the corrective actions taken. When the Integrity Section receives a response, it is noted in the Access database.
- When, based on its review of an arrest report, the Integrity Section concluded that an ISR should have been completed but was not, the Integrity Section notified the Commander of the relevant District, using the Investigatory Stop Report Oversight Observation Report, and requested that the district report to the Integrity Section regarding the corrective actions taken. When the Integrity Section receives a response, it is noted in the Access database.
- The Integrity Section prepared training materials for a course entitled “A Refresher and Further Guidance Regarding Investigatory Stops” that addresses common mistakes observed by the Integrity Section, as well as commonly asked questions, and also provides examples of good and bad ISRs. The refresher training addressed all deficiencies commonly noted by the Integrity Section in its daily audits. For example, an ISR that relied on “officer safety reasons” alone to justify a pat down was included as an example of a bad ISR. The training materials were reviewed and validated by consultant Michael Bromwich, the City’s Department of Law, and Judge Arlander Keys and his police practices expert Matthew Barge.
- The training materials were used by the Academy to prepare an E-Learning module that was made available to all Department members to coincide with the Department rolling out (on 10 July 2017) the changes in the ISR form to require officers, using checkboxes, to distinguish between stops based on reasonable articulable suspicion and stops based on probable cause, and also to articulate in the narrative the factual basis for any probable cause stops. As of 06 October 2017, 85% of Department members had been trained on the E-Learning module. Through their chain of command, Department members who have not completed the E-Learning module have been reminded to do so.
- To coincide with the release of the E-Learning module, the Integrity Section conducted in-person ISR training on the three watches in the Third, Seventh, and Eleventh districts. These districts were selected because, in general, more ISRs are written in them than in other districts. The Integrity Section

also provided in-person ISR training to supervisors in the Bureau of Patrol. In addition, the Integrity Section provides in-person training on request. For example, the Integrity Section trained all supervisors assigned to the Bureau of Organized Crime over two days in June 2017.

- The Integrity Section continues to receive questions (via email to AskISR and telephone), and utilizes these inquiries as an opportunity to mentor Department members regarding ISR-related issues. The Integrity Section currently receives approximately 10 emailed questions each month, and approximately 50 questions by telephone each week. The Integrity Section noted an increase in questions following the rollout of the revised ISR form and the refresher training on 10 July 2017. The Integrity Section answers questions as soon as possible, usually within one day, and, if needed, after consulting with the Office of Legal Affairs. Common topics of inquiry are:
 - As a supervisor, how to address an ISR that is deficient.
 - Whether, in various scenarios, an ISR needs to be completed. For example, following updates to Department policy, callers inquired about when an ISR is required for curfew violations and school absentees.
 - Inquiries regarding the Integrity Section's conclusion that an ISR was approved in error.
 - What constitutes a consensual encounter.
 - How to get an ISR out of a status that can no longer be accessed.
 - What to do with an ISR when the author is no longer with the Department.
 - When an ISR is required during a traffic stop.
- In September 2017, the Integrity Section ran a status check on ISRs in a Preliminary ("PRE"), Deficiency Rejection ("DEF"), and Administrative Rejection ("REJ") status for 01 January 2016 through 30 June 2017. The goal of this audit was to ensure that ISRs are being timely moved to a final status. The Integrity Section has followed up with the relevant units to ensure that

action is taken by the author of any ISRs in a non-final status and/or a supervisor of the author to finalize the ISRs

(4) Review of Monthly Audits Conducted by Executive Officers

Section VIII.C.3 of Special Order S04-13-09 sets forth the responsibilities of executive officers to conduct monthly internal audits and to report on their findings to their commanding officers. The Integrity Section trained 27 executive officers on 28 July 2016 and another 20 executive officers on 10 November 2016 on their duty to prepare monthly audits. For each monthly audit, the executive officer is instructed to review a random sample (10%) of all ISRs for that month, make a determination whether any are deficient, and, in the case of any deficiencies, document the corrective action taken. They must list the ISRs they review, which ISRs they determined to be deficient and why, and what they did to address the deficiencies. The Integrity Section confirms that executive officers timely submit their monthly audits and follows up with the executive officers as needed.

(5) Review of Records of Supervisory Corrections and/or Rejections of Investigatory Stop Reports to Identify Officers Who Fail to Properly Conduct or Document Investigatory Stops and Protective Pat Downs

In addition to its daily audit of an at least 10% sample of ISRs that have been placed in "Approved" status, the Integrity Section also reviews all ISRs that a reviewing supervisor has placed in "Deficiency Rejection Review" status. Reviewing supervisors placed 237 ISRs that were created between 1 January 2017 and 30 June 2017 in Deficiency Rejection Review status. The Integrity Section utilizes these reviews, as well as its review of a random sample of ISRs placed in "Approved" status, to identify those Department members who repeatedly submit or approve deficient ISRs. In such cases, the Integrity Section reviews that member's ISR history to determine whether corrective action is warranted.

- In 2016, the Integrity Section identified 15 Department members in need of further training based on its determination that those members had repeatedly submitted deficient ISRs, or had repeatedly approved ISRs in error. The Integrity Section provided in-person refresher training to 12 of the 15 members over three dates between February and May 2017. The remaining 3 members have retired or otherwise left the Department.

- In 2017, the Integrity Section continued to rely on its audits to identify Department members who repeatedly submitted deficient ISRs, or who repeatedly approved ISRs in error. The Integrity Section identified an additional 15 Department members that, in the Integrity Section's view, need further training. The Integrity Section will provide in-person training to these members, as well as any other members that it identifies.

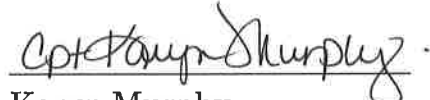
(6) Examination of Civilian and Internal Complaints

The Bureau of Internal Affairs (BIA) has been providing the Integrity Section with documentation regarding any civilian or internal complaints that are determined to be potentially related to an investigatory stop or protective pat down. The Integrity Section reviews these materials for purposes of making recommendations regarding improvements, corrective actions, and ways to diminish the number of complaints regarding investigatory stops.

- Working with BIA, the Integrity Section identified 85 civilian complaints filed between 01 January and 31 December 2016 that were related to an investigatory stop and/or protective pat down. The Integrity Section also identified 4 internal complaints (SPARs) that were related to an investigatory stop and/or protective pat down. The Integrity Section conducted an audit of the civilian and internal complaints to identify any patterns that warrant further inquiry. The Integrity Section sought to determine whether any of the complaints involved the same officer, the same complainant, or strikingly similar allegations of misconduct. The Integrity Section found no such patterns.
- During its audit of the complaints, the Integrity Section determined that, in a small number of cases, an ISR should have been created but no ISR could be found. Going forward, the Integrity Section plans to use the Investigatory Stop Audit Report to address the issue, and it has proposed changes to the Investigatory Stop Audit Report form to allow for this use.
- On 15 September 2017, the Civilian Office of Police Accountability became responsible for investigating civilian complaints alleging Fourth Amendment violations. COPA has informed the Office of Legal Affairs and the Department of Law that it will provide the Integrity Section with information regarding civilian complaints that are potentially related to an investigatory

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stop or protective pat down so that the Integrity Section may continue its complaint-related audits.


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Approved:

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