

OAKLAND POLICE DEPARTMENT

Office of Inspector General



AUDIT OF RESERVE POLICE PROGRAM

June 19, 2013

CITY OF OAKLAND

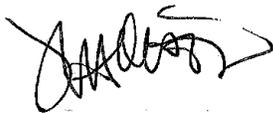
Memorandum

To: Chief Sean Whent
From: Acting Lieutenant Michelle Allison
Date: June 27, 2013
Subject: **Audit of Reserve Police Program**

On May 8, 2013, the Audit and Inspections Unit of the Office of Inspector General initiated an audit of the Oakland Police Department's (OPD) reserve police program. The purpose of the audit was to determine whether OPD's execution of the program is in accordance with the established guidelines in Departmental General Order (DGO) A-4, *Police Reserve Program*. Additionally, the intent of the audit was to identify policy, procedure, and/or practice deficiencies and to propose solutions that will aid in the Department's ability to operate an effective and efficient program.

To conduct this audit, the Audit Team coordinated with managing and supervising personnel from the Department's Special Operations Division (SOD). Two SOD personnel were interviewed to determine how the Department currently operates its Reserve Police Program. In addition, the personnel were consulted, when necessary, to clarify information.

Lastly, the audit team reviewed the Training Management System (TMS) records for each reserve police officer. The TMS records provided documented training for each reserve police officer for the years 2010, 2011, and 2012.



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EXECUTIVE SUMMARY

In May, the Audit and Inspections Unit of the Office of Inspector General initiated an audit of the Oakland Police Department's (OPD) reserve police program. The purpose of the audit was to determine whether OPD's execution of the program is in accordance with the established guidelines in Departmental General Order (DGO) A-4, *Police Reserve Program*. Additionally, the intent of the audit was to identify policy, procedure, and/or practice deficiencies and to propose solutions that will aid in the Department's ability to operate an effective and efficient program.

The audit indicates that the Department is not operating a Police Reserve Program in an optimal manner. There are four main issues that are detrimental to the success of the program. First, there is not adequate supervision to oversee the duties and responsibilities of the Police Reserve Detail. A regular sworn officer is assigned to supervise the detail, but the duties and responsibilities of the reserve officers suggest that a regular sworn supervisor should be assigned as the supervisor. Secondly, the Department's policy does not include language that assigns the monitoring of the activities (i.e. hours worked, customer complaints or commendations, mandatory training, etc.) of the reserve officers to any sworn rank. Thirdly, the Department does not include the actual assignments for each reserve officer in its Telestaff system, and, therefore there is not an official record of the activities of reserve officers. Lastly, and most importantly, the Department's Level I and Level II officers are not meeting the minimum number of hours worked each month or receiving the required firearms and Continued Professional Training and therefore should not be considered certified, according to the Commission on Peace Officers Standards Training.

To bring the Department's reserve police program up to standards, we are making the following recommendations:

- The Department should ensure there is a regular sworn supervisor providing adequate supervision over its police reserve officers who work in field operations.
- The Department should ensure its Level I and Level II reserve police officers work the minimum number of hours and receive the required CPT to maintain their certified status.
- The Department should ensure all reserve police officers attend required firearms qualifications courses.
- The Department should ensure there is a regular sworn supervisor ensuring police reserve officers receive and review departmental policy, rules, regulations, and procedures updates.
- The Department should ensure that both the Special Operations Division and the Training Section coordinate the required training for its reserve police officers.
- Since reserve police officers work in the field, the Department should determine whether they are subject to the mandates outlined in the Negotiated Settlement Agreement for police officers.

In closing, the Department's police reserve officers are not current in their training and therefore are not in compliance with their POST certification requirements. It is imperative that DGO A-4 is modified to ensure the presence of adequate supervision and accountability mechanisms that will minimize the risks to the Department.

PURPOSE

On May 8, 2013, the Audit and Inspections Unit of the Office of Inspector General initiated an audit of the Oakland Police Department's (OPD) Police Reserve Program. The purpose of the audit was to determine whether OPD's execution of the program is in accordance with the established guidelines in Departmental General Order (DGO) A-4, *Police Reserve Program*. Additionally, the intent of the audit was to identify policy, procedure, and/or practice deficiencies and to propose solutions that will aid in the Department's ability to operate an effective and efficient program.

BACKGROUND

This audit was conducted at the request of the Deputy Chief of the Bureau of Risk Management.

The Office of Inspector General conducted its first audit of OPD's reserve police program. Therefore, the Audit Team the subject matter to determine the important elements of a police reserve program and to determine the baseline the program has to meet to be considered compliant with the state of California standards. The research led the Audit Team to the applicable State of California penal codes that relate to the scope of this audit, and they are listed below:

Penal Code 830.6(a)(1) states that whenever any qualified person is deputized or appointed by the proper authority as a reserve...city police officer...and is assigned specific police functions by that authority, the person is a peace officer, if the person qualifies as set forth in Section 832.6. The authority of a person designated as a peace officer pursuant to this paragraph extends only for the duration of the person's specific assignment

Penal Code 830.6(a) (2) states that whenever any qualified person is deputized or appointed by the proper authority as a reserve...city police officer...and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by that authority, the person is a peace officer, if the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a person designated as a peace officer pursuant to this paragraph includes the full powers and duties of a peace officer as provided by Section 830.1.

Penal Code 832.6(a) states that every person deputized or appointed, as described in subdivision (a) of Section 830.6, shall have the powers of a peace officer only when the person is any of the following:

- (1) A level I reserve officer deputized or appointed pursuant to paragraph (1) or (2) of subdivision (a) or subdivision (b) of Section 830.6 and assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training. For level I reserve officers appointed prior to January 1, 1997, the basic training requirement shall be the course that was prescribed at the time of their appointment. Reserve officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the commission.

(2) A level II reserve officer assigned to the prevention and detection of crime and the general enforcement of the laws of this state while under the immediate supervision of a peace officer who has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training, and the level II reserve officer has completed the course required by Section 832 and any other training prescribed by the commission.

Level II reserve officers appointed pursuant to this paragraph may be assigned, without immediate supervision, to those limited duties that are authorized for level III reserve officers pursuant to paragraph (3). Reserve officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the commission.

(3) Level III reserve officers may be deployed and are authorized only to carry out limited support duties not requiring general law enforcement powers in their routine performance. Those limited duties shall include traffic control, security at parades and sporting events, report taking, evidence transportation, parking enforcement, and other duties that are not likely to result in physical arrests. Level III reserve officers while assigned these duties shall be supervised in the accessible vicinity by a level I reserve officer or a full-time, regular peace officer employed by a law enforcement agency authorized to have reserve officers. Level III reserve officers may transport prisoners with immediate supervision. Those persons shall have completed the training required under Section 832 and any other training prescribed by the commission for those persons...”

The state of California, via its penal codes, considers reserve police officers to be peace officers during the duration of their specific assignments. In addition, the state grants reserve officers the powers of a police officer when certified as a level I, II or III reserve police officer. Therefore, the Audit Team analyzed OPD’s reserve police program for effectiveness and efficiency based upon the presence of transparency in its policies and procedures, adequate supervision in its operation of the program, and the institution of accountability mechanisms that minimize risks to the Department.

SCOPE AND POPULATION

Audit Scope

This audit had two key objectives. The first objective was to determine whether OPD’s execution of its reserve police program is in accordance with the established guidelines in Departmental General Order (DGO) A-4, *Police Reserve Program*. The second objective of the audit was to identify policy, procedure, and/or practice deficiencies and to propose solutions that will aid in the Department’s ability to operate an effective and efficient program.

The Department’s entire policy, DGO A-4, was not audited. DGO A-4 includes sections regarding the selection, training, and appointment of reserve officers, and these sections and the Department’s actual practice on said sections were not audited.

Audit Population

DGO A-4, Section I.E reads in part, “Reserve officers are subject to and shall comply with all policies, rules, regulations, and procedures set forth in departmental orders, bulletins, and manuals...” Therefore, to determine whether the Department’s nine police reserve officers complied with firearms qualifications and POST mandated Continued Professional Training, each of the nine police reserve officers documented Training Management System (TMS) record was reviewed. The training record for the last three years (2010, 2011, and 2012) was reviewed for each officer.

METHODOLOGY/ANALYSIS

In conducting the audit of OPD’s reserve police program, the lead auditor interviewed SOD supervising personnel to determine whether the Department’s practice in executing its program is in accordance with the established guidelines in DGO A-4. In addition, the auditor reviewed the policy outlined in the aforementioned general order and the training records of each reserve police officer for the last three years (2010, 2011, and 2012). The auditor sought to determine the following information:

- 1) The number of officers in the Police Reserve Detail and their respective ranks;
- 2) Whether there is adequate supervision for the reserve police program; and
- 3) Whether the police reserve officers are current with all OPD and/or state of California mandated training.

Reference Material

The documents and systems below were used to evaluate the correct procedures for the Oakland Police Department’s ability to operate an effective and efficient Police Reserve Program:

1. In-Service Training Supervisor of Training Section at Oakland Police Department. Personal Interview. May 28, 2013.
2. Negotiated Settlement Agreement with Stipulations, revised December 2008.
3. “Police Reserve Officer” Job Announcement, online at <http://www.opdjobs.com/reserve-police-officer.asp>.
4. *Police Reserve Program*, Departmental General Order A-4, effective January 19, 2000.
5. Regional Manager of Regional Skills Training Center at Commission of Police Officer Standards and Training. Personal interview. May 30, 2013.

PRACTICES, FINDINGS, AND RECOMMENDATIONS

Objective 1

Determine the number of officers in the Police Reserve Detail and their respective ranks.

Standard (DGO A-4)

The Police Reserve Detail is an organizational unit of the Special Operations Division (SOD)...Reserve ranks shall be as follows: (1) Reserve Captain; (2) Reserve Lieutenant; (3) Reserve Sergeant; and (4) Reserve Police Officer.

Audit Steps

To determine the number of officers in the Police Reserve Detail and their respective ranks, the auditor interviewed the SOD supervisor and the reserve captain. In addition, the auditor requested and received a roster from SOD and OPD's Human Resources Division.

Findings

The Department's Police Reserve Detail is filled with volunteers, who do not receive pay. The audit indicated that although the Department's policy does include what the ranks of reserve police officers shall be, the necessity for the said rankings is not transparent. The Department has nine reserve police officers: 1 reserve captain, 3 reserve sergeants, and 5 reserve officers. The Police Reserve Detail does not include a reserve lieutenant at this time, but SOD is planning to fill that position. Although there are various reserve ranks, the policy does not articulate how the duties and responsibilities of the reserve officers' respective ranks differ from each other. In addition, the policy does not articulate how duties and responsibilities of the various reserve officer ranks differ from the respective traditional regular sworn officers of the same rank. In practice, the auditor was advised that "the reserve captain handles administrative duties for the detail and the reserve commanders and supervisors have the same responsibilities as regular commanders and supervisors. The only difference is that they do not have administrative duties such as investigating uses of force, etc."

Objective 2

Determine whether there is adequate supervision for the reserve police program.

Standard (DGO A-4)

The Police Reserve Detail is an organizational unit of the Special Operations Division (SOD) under the direct supervision of a regular [sworn] member of the department assigned as the officer-in-charge....Under the direction of the officer-in-charge, reserve commanders and supervisors shall maintain liaison with regular [sworn] commanders and supervisors concerning the training and utilization of reserve officers...When assigned to any duty, a reserve officer, regardless of rank, shall be subordinate to and obey the lawful orders of any regular [sworn] member of the Department.

Pursuant to Penal Code Section 830.6(a) (1), any qualified person who is appointed by proper authority as a reserve officer and who is assigned specific peace officer functions by the appointing authority is a peace officer. However, the authority, duties, powers,

immunities, and privileges of a peace officer are vested in a reserve police officer only for the duration of specific authorized duty assignments.

When assigned to any duty requiring reserve officer status at any level, a reserve officer is considered an employee of the City of Oakland. On-duty reserve officers are entitled to the same rights and immunities provided to the functions of full-time officers and are subject to the same restrictions...At the conclusion of each tour of duty or special event assignment, or whenever relieved by competent authority, reserve officers shall assume civilian status pending the next authorized assignment.

Audit Steps

To determine who regularly supervises the reserve police officers, the auditor interviewed the SOD supervisor and the reserve captain. In addition, OPD's official master detail and roster system, Telestaff, was used to determine the beat/assignment each reserve officer worked and to determine whether he/she was supervised by the same OPD supervisor while on duty.

Findings

The audit indicated that OPD has not assigned adequate supervision, via policy and practice, to oversee the duties and responsibilities of its Police Reserve Detail. The policy states that the Police Reserve Detail is an organizational unit of the Special Operations Division (SOD) under the direct supervision of a regular member of the department assigned as the officer-in-charge. The Department's officer-in-charge is a regular sworn police officer, and his responsibilities for supervising the reserve police program are vague. The policy reads, "...Under the direction of the officer in charge, reserve commanders and supervisor shall maintain liaison with regular commanders and supervisors concerning the training and utilization of reserve officers..." The policy states that the only responsibility the officer-in-charge has is to convey to the reserve commanders and supervisors the need to maintain some type of relationship or communication with regular sworn commanders and supervisors about training for reserve officers and how reserve officers will be used. The policy suggests that direct supervision equates to an officer telling the reserve commanders and supervisors to communicate with sworn commanders and supervisors. The policy does not specify any other duties or responsibilities for the officer-in-charge. The policy does not specify the supervisory duties or responsibilities of the regular sworn commanders and supervisors who are responsible for advising the reserve officers of their training and their assignments. Moreover, the policy does not state who is responsible for ensuring reserve police officers receive mandated training (i.e., firearms, CPT, etc.) and evaluations of their respective performance (i.e., uses of force, complaints, commendations, etc.) in the field.

In addition, the audit indicated that the Department's supervision is inadequate in practice because it is not transparent which regular sworn supervisor is responsible for monitoring and evaluating the activities of the reserve officers working in the field. According to the Department's practice, "reserve police officers are used to supplement Patrol. They work in the east and mostly on Fridays. They check in with the watch commander to determine the best place to place them. If a beat is open, the unit helps out with the calls for service. Reserve officers do respond to felonies in progress. They take the case, *neutralizing* the situation; preserving the scene; setting up the perimeter; broadcast

information; if a hurt person needs care, reserve officers call fire/ambulance. Generally, a second officer (the primary officer) comes to the scene and takes over the scene. The primary officer completes the Crime Report and reserve officer(s) provide a Supplemental.” These statements indicate that the reserve police officers are responding to calls for service. Reserve officers being assigned to open beats indicate that reserve police officers are used where they are needed and not assigned to a regular beat. Not being assigned to a regular beat poses a problem for the Department in that there are various regular sworn supervisors who supervise the beats in the “east.” It is not transparent whether there is a regular sworn supervisor who is responsible for monitoring the behaviors of reserve officers while working in the field. Working open beats could mean that reserve officers are regularly under the jurisdiction of a different sworn supervisor each time they work, making it impossible for any particular sworn supervisor to detect positive or negative patterns of conduct for any particular reserve officer(s).

The essence of the state statute indicates that the Department has inadequate supervision assigned to the Reserve Police Detail. According to the aforementioned penal code, the authority, duties, powers, immunities, and privileges of a peace officer are vested in a reserve police officer only for the duration of specific authorized assignments. The Department’s reserve officers work in field operations and the penal code clearly states that they have the same rights and privileges as peace officers. The Department has Level I and Level II reserve officers, who carry firearms and encounter the public while on duty. Therefore, reserve officers are subject to use force and be involved in customer complaints while working in the field. It is not transparent which regular sworn supervisor in addition to the assigned reserve command or supervisor can be held accountable for monitoring and evaluating a reserve officer’s uses of force and any other high risk behavior that may place the Department in an unfavorable light with its stakeholders.

Moreover, the audit indicated that the Department’s policy does not include who has the responsibility of closely monitoring the activities (i.e., hours worked, customer complaints or commendations, etc.) of the reserve police officers. The policy states that when assigned to any duty, a reserve officer, regardless of rank, shall be subordinate to and obey the lawful orders of any regular member of the Department. This statement limits the responsibility of the officer-in charge, who is a regular sworn officer, to providing lawful orders to the reserve police officers. The policy does not direct the officer in charge with the responsibility of closely monitoring the activities of the reserve officers. Subsequently, it does not include language that assigns the monitoring of the activities of reserve officers to any other departmental rank.

It should be noted that the audit indicated that it is not the practice of the Department to include the actual assignments for each reserve police officer in its Telestaff system. Therefore, the auditor was unable to use the master detail and roster system to determine the following information:

- The actual beat(s)/assignment(s) worked for each reserve officer.
- How often a reserve officer worked the same beat and therefore was under the same jurisdiction of a sworn supervisor, if applicable.
- The duration of the specific authorized duty assignment.

- Whether Level I reserve officers worked as a single-officer reserve units; as the second officer in a beat or tactical unit; as two-officer reserve units; or as crowd and traffic control officers at special events.
- The auditor was unable to determine whether the one Level II reserve officer was only assigned as a second officer in a beat or tactical unit under the immediate supervision of a regular sworn member or without immediate supervision to those limited duties (i.e. traffic control, security at parades and sporting events, report taking, evidence transportation, parking enforcement, and other duties that are not likely to resulting in physical arrests) that are authorized for Level III officers.
- How often a field unit staffed only by reservists was dispatched as the primary unit responsible for reporting and investigating a felony crime and whether the unit was specifically so authorized by the watch commander.

Objective 3

Determine whether the reserve police officers are current with all Departmental and/or state of California mandated training.

Standard (DGO A-4)

Reserve officers are subject to and shall comply with all policies, rules, regulations, and procedures set forth in departmental orders, bulletins, and manuals. Reservists shall at all times conduct themselves in such a manner as to avoid reflecting any criticism on the Department

As defined by California Penal Code Sections, 830.6(a) (1) and 832.6(a) (1), Level I reserve officers may be assigned as follows:

- As single-officer reserve units.
- As the second officer in a beat or tactical unit.
- As two-officer reserve units.
- As crowd and traffic control officers at special events.

A field unit staffed only by reservists shall not be dispatched as the primary unit responsible for reporting and investigating a felony crime unless specifically so authorized by the watch commander.

As defined by California Penal Code Section 832.6(a)(2), Level II reserve officers may only be assigned as a second officer in a beat or tactical unit under the immediate supervision of a regular [sworn] member or without immediate supervision to those limited duties (i.e. traffic control, security at parades and sporting events, report taking, evidence transportation, parking enforcement, and other duties that are not likely to resulting in physical arrests) that are authorized for Level III officers.

Audit Steps

To determine whether OPD's police reserve officers are complying with departmental and/or state of California mandated training, policies, rules, regulations, and procedures, the auditor interviewed the SOD supervisor and the reserve captain. In addition, the auditor consulted with OPD's In-Service Training Supervisor to determine the firearms qualifications requirement for reserve police officers. Lastly, the auditor consulted with

the Commission on Peace Officers' Standards and Training (POST) Regional Manager of the Regional Skills Training Center to determine the Continued Professional Training (CPT) standards for reserve police officers.

The auditor sought to determine how the police reserve officers were receiving departmental required training, policies, rules, regulations, and procedures so that they could comply with them.

To determine whether the required training was provided to the reserve police officers, the auditor reviewed the Training Management System (TMS) record for each reserve officer for the last three years: 2010, 2011, and 2012.

Findings

The audit indicated that the Department does not have adequate supervision and accountability mechanisms in place to ensure that its reserve police officers receive and comply with mandated training, policies, rules, regulations, and procedures. There are eight Level I reserve officers and one Level II reserve officer. During the auditor's consultation with POST's regional manager, the following information was provided:

To keep their Level I status, Level I reserve police officers must work a minimum of 16 hours a month. In addition, Level I officers are required to have a minimum of 24 hours CPT every 24 months. However, **16** of the 24 hours must be **perishable skills**. Lastly, **14** of the 16 hours must include the following three perishable skills: (1) driving; (2) firearms; and (3) defensive tactics. All these courses must be POST-certified.

Level II reserve police officers are required to have 24 hours CPT every 24 months, but they do not have the perishable skills requirement. However, **if they are out on patrol**, it is recommended that they do **have the same perishable skills training** as Level I officers to diminish the risk and liability to the Department.

Based upon a review of the reserve police officers' TMS records, there is not any documentation to support that the officers are receiving the required CPT training. In addition, the audit indicated that it is not mandatory that Level I reserve police officers work a minimum of 16 hours a month. In practice, reserve officers are considered within departmental guidelines as long as they work 60 hours within a three month period even though the Department's job posting for a reserve police officer states that there is a service commitment of 20 hours a month. It should be noted that the Department's policy does not include a minimum number of hours a reserve police officer must work.

During the auditor's consultation with the Department's in-service training supervisor regarding firearms requirements, the following information was provided:

There are two mandatory, annual firearms courses that must be taken:

- In-Service Firearms Qualification-4HR
- In-Service Firearms Qualification-COPA-10 or 8HR*

*Note: Currently, the Department requires 10HR. However, prior to 2012, the Department required 8HR.

In addition to the courses above, every 18 months the following training is mandatory:

- Firearms/Force Options-CPT/PSP-10 or 8 or 5HR**
**Note: The Department requires 10HR.

Based upon a review of the reserve police officers' TMS records, there is not any documentation to support that the officers are consistently meeting the required firearms qualifications standards. See Attachment A for an overview of all documented training.

Lastly, the audit indicated the Department does not have a regular sworn supervisor who ensures that reserve police officers receive and review policy, rules, regulations, and procedures updates. It is noted that there is a reserve captain who has administrator capabilities and is responsible for ensuring the reserve officers receive and review their respective updates.

Recommendations

The Department should ensure there is a regular sworn supervisor providing adequate supervision over its reserve police officers who work in field operations.

The Department should ensure its Level I and Level II reserve police officers work the minimum number of hours and receive the required CPT to maintain their certified status.

The Department should ensure all reserve police officers attend required firearms qualifications courses.

The Department should ensure there is a regular sworn supervisor ensuring police reserve officers receive and review departmental policy, rules, regulations, and procedures updates.

The Department should ensure that both SOD and the Training Section coordinate the required training for its reserve police officers.

Since reserve police officers work in the field, the Department should determine whether they are subject to the mandates outlined in the Negotiated Settlement Agreement for police officers.

Attachment A**Required Training for Reserve Police Officers****Firearms**

No.	Serial No.	Year	Annual 4HR In-Service Firearms	Annual *10HR In-Service Firearms	Required CPT Training	Comment(s)
1	1284	2010	N	Y	Y	
		2011	Y	Y	N	
		2012	Y	Y	N	
2	1288	2010	Y	N	N	No documented training in 2012.
		2011	N	N	N	
		2012	N	N	N	
3	1116	2010	Y	Y	Y	
		2011	Y	Y	N	
		2012	Y	Y	N	
4	1168	2010	N	Y	N	
		2011	N	Y	N	
		2012	Y	Y	N	
5	1285	2010	N	Y	Y	
		2011	N	Y	N	
		2012	N	Y	N	
6	1062	2010	N	Y	N	
		2011	N	Y	N	
		2012	Y	Y	N	
7	1291	2010	N	Y	N	
		2011	N	Y	N	
		2012	Y	Y	Y	
8	1121	2010	N	Y	N	
		2011	N	Y	N	
		2012	Y	Y	Y	
9	1133	2010	Y	Y	Y	
		2011	Y	Y	N	
		2012	Y	Y	N	

*Prior to 2012, the mandatory training was 8HR.