

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 28 Feb 14

SUBJECT: Revision of Departmental General Order K-10,
UNDERCOVER OPERATIONS (Rev. 01 Oct 11)

The purpose of the revision to this order is to update Departmental policy and procedures for Undercover Operations.

The following is a summary of the substantive changes and shall not take the place of the required review and understanding of the entire policy:

1) Part I, B, 1-3 added (Definitions):

B. Vice/Human Trafficking Operations

1. Vice/Human Trafficking operations are defined as those which are victim centered or victim driven crimes related to Human Trafficking including but not limited to prostitution, lewd public sex acts, massage technicians and massage parlor activities.
2. Gambling, card rooms, alcoholic beverage and cabaret related activities are not considered Vice/Human Trafficking operations unless linked to activity types identified above.
3. Vice/Human Trafficking Operations shall only be conducted by, or under the supervision of, the Special Victims Section (SVS).

2) Part II, A-C revised (Training):

Prior to being designated to an undercover assignment, officers:

- A. Shall successfully complete the Department's Undercover Officer School for Narcotics Operations (all operations except Vice/Human Trafficking);
- B. Shall successfully complete the Department's Undercover Officer School for Vice/Human Trafficking Operations (for any Vice/Human Trafficking operations)
 1. After completion of the Department's Undercover School for Vice/Human Trafficking Operations, officers shall, once a year, attend a four (4) hour Vice/Human Trafficking legal update course by the SVS.

C. May be so designated (except for Vice/Human Trafficking operations), on a case by case basis, when the officer has commensurate experience/training, and with the approval of the operation supervisor and their first-level commander in consultation with the identified Subject Matter Expert (SME) through the Training Section. Such approval and supporting statements shall be documented in a memorandum prepared by the supervisor of the operation, and submitted and approved by the first-level commander of the supervisor.

3) Part V, H-J added (Safety Briefing):

H. Undercover officers shall not initiate the touching of a subject or officer's genitals (e.g. testicles, penis, labia, clitoris, and vagina) or intimate parts (e.g. breast or buttocks). An unprompted touch of an officer by a subject does not constitute a violation of Policy;

I. The touching of a subject or officer's clothed or covered genitals or intimate body parts (aka "cop check"), not initiated by the officer, to further a police objective is allowed unless the subject is a known juvenile or the officer reasonably believes the subject is a juvenile;

J. Skin to skin touching of a subject or officer's genitals (e.g. testicles, penis, labia, clitoris, vagina) is strictly prohibited. An unprompted touch of an officer by a subject does not constitute a violation of Policy;

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of



Sean Whent
Interim Chief of Police

Date Signed: 3-3-11



DEPARTMENTAL
GENERAL
ORDER

K-10

Index as:

Undercover Operations

Effective Date:
28 Feb 14

Evaluation Coordinator:
BFO Commander

Evaluation Due Date:
28 Aug 14

Automatic Revision Cycle:
3 Years

UNDERCOVER OPERATIONS

The purpose of this order is to set forth the responsibilities of Departmental personnel when planning and engaging in Undercover (UC) Operations.

Operations involving the use of undercover officers are one of the most dangerous undertakings for all personnel involved. The safety of all participants is critical and the responsibility for the successful outcome of these operations rests heavily with the operation supervisor.

I. DEFINITIONS

A. Undercover Operations

Any enforcement/investigative action using Departmental personnel who are wearing civilian clothing, for the purpose of concealing their peace officer status, and where interaction with a criminal element is anticipated. These operations include, but are not limited to, buy-bust, reverse buy-bust, and prostitution enforcement operations. For purposes of this order, operations conducted by the Internal Affairs Division – Integrity Testing Unit (IAD-ITU) is exempt from the provisions of this order. The IAD-ITU is governed by the provisions of IAD Policy and Procedure 07-01.

NOTE: Officers operating in civilian clothes where interaction with a criminal element is not anticipated **are not** considered to be operating undercover (e.g., surveillance operations from a covert vehicle, house or building.)

B. Vice/Human Trafficking Operations

1. Vice/Human Trafficking operations are defined as those which are victim centered or victim driven crimes related to Human Trafficking including but not limited to prostitution, lewd public sex acts, massage technicians and massage parlor activities.

2. Gambling, card rooms, alcoholic beverage and cabaret related activities are not considered Vice/Human Trafficking operations unless linked to activity types identified above.
3. Vice/Human Trafficking Operations shall only be conducted by, or under the supervision of, the Special Victims Section (SVS).

II. TRAINING

Prior to being designated to an undercover assignment, officers:

- A. Shall successfully complete the Department's Undercover Officer School for Narcotics Operations (all operations except Vice/Human Trafficking);
- B. Shall successfully complete the Department's Undercover Officer School for Vice/Human Trafficking Operations (for any Vice/Human Trafficking operations)
 1. After completion of the Department's Undercover School for Vice/Human Trafficking Operations, officers shall, once a year, attend a four (4) hour Vice/Human Trafficking legal update course by the SVS.
- C. May be so designated (except for Vice/Human Trafficking operations), on a case by case basis, when the officer has commensurate experience/training, and with the approval of the operation supervisor and their first-level commander in consultation with the identified Subject Matter Expert (SME) through the Training Section. Such approval and supporting statements shall be documented in a memorandum prepared by the supervisor of the operation, and submitted and approved by the first-level commander of the supervisor.

III. PLANNING

- A. An Operations Plan shall be completed for all undercover operations in accordance with the provisions of Training Bulletin III-Q, RISK ASSESSMENT OVERVIEW & OPERATIONS PLAN, and distributed as necessary.
- B. Acting Sergeants shall not supervise undercover operations.

IV. RESPONSIBILITIES

- A. Pre-Operation Responsibilities

1. Officer
 - a. Inspect and carry authorized and mandatory safety equipment:
 - 1) Weapon (make and caliber);
 - 2) Spare magazine;
 - 3) Holster; and
 - 4) Departmental identification.
 - b. Officers may utilize a protective (ballistic) vest at their discretion or at the direction of a supervisor.
 - c. Log on via telephone with the Communications Section advising their call sign, undercover status and vehicle description.
 - d. Ensure UC vehicle has two (2) radios, spare batteries and a cell phone.
2. Operation Supervisor
 - a. Approve all plans and all changes to the Operations Plan;
 - b. Ensure undercover officers have appropriate training/experience for the mission (Operational experience/Attendance of undercover school);
 - c. Assess the likelihood of the undercover officer's identity being discovered and compromising their safety. (e.g., consider not utilizing an officer for an undercover assignment in an area where he/she routinely works, has been recently seen at a local community meeting or on local media, or where an officer(s) is known to patrol a specific area);
 - d. Assess the desire or requirement for the undercover officer to possess specific abilities or knowledge (e.g., bilingual, local narcotics trade lingo, local sex trade lingo, etc.);
 - e. Ensure proper equipment is available and that officers have received training on the equipment;

- f. Notify the Watch Commander of the operation and provide an Operations Plan so the Watch Commander may advise officers during line-up and/or provide photos of the undercover officer(s), if practical;
- g. Notify outside law enforcement agency of the operation, if appropriate;
- h. Notify the Communications Section supervisor of the operation;
- i. Notify the District Patrol Supervisor of the operation; and
- j. Conduct operation briefing to include:
 - 1) Introduction of undercover officers in undercover attire;
 - 2) Introduction of undercover vehicle;
 - 3) Ensuring all members participating are present at the briefing to see the undercover officers;
 - 4) Assigning responsibilities to arrest/cover teams; and
 - 5) Conducting safety briefing in accordance with Part V of this order.

B. Supervisory Responsibilities during the Operation

- 1. Supervise all operation activities from the field in close proximity to the area of operation;
- 2. Ensure adequate communications with undercover officers and other members of the operation with minimal radio traffic when undercover officers are operational;
- 3. Ensure that the operation proceeds safely toward its objective; and
- 4. Direct arrest and cover teams.

C. Supervisory Responsibilities Post Operation

The supervisor shall conduct a debriefing as soon as practical after the operation to commend efforts or identify problems with the intention of addressing training issues and improving the performance of personnel involved.

V. SAFETY BRIEFING

The operation supervisor shall conduct a safety briefing to advise or remind operation personnel of the following:

- A. All personnel are responsible for identifying and addressing hazards that come to their attention;
- B. Undercover officers may not be easily recognized as an officer;
- C. If undercover officers display their firearm, others (officers and public) may perceive them as a threat;
- D. Undercover officers shall only take enforcement action when there is imminent threat of death/serious bodily injury to themselves, another officer/citizen or at the direction of a supervisor;

An undercover officer considering enforcement action (arrests) must consider the following:

- 1. Does this situation demand my involvement?
 - 2. Am I at a tactical disadvantage?
 - 3. Is it more prudent for me not to become involved directly with the situation?
 - 4. Am I able to communicate with the Communications Section, other officers, and other operation personnel?
- E. Undercover officers shall remain out of a perimeter unless ordered to do otherwise by a supervisor;
 - F. Undercover officers shall not make pedestrian stops, car stops or participate in vehicle pursuits in undercover vehicles;

- G. Undercover officers shall be prepared to identify themselves at all times during the operation by displaying a Departmental star or Departmental identification;
- H. Undercover officers shall not initiate the touching of a subject or officer's genitals (e.g. testicles, penis, labia, clitoris, and vagina) or intimate parts (e.g. breast or buttocks). An unprompted touch of an officer by a subject does not constitute a violation of Policy;
- I. The touching of a subject or officer's clothed or covered genitals or intimate body parts (aka "cop check"), not initiated by the officer, to further a police objective is allowed unless the subject is a known juvenile or the officer reasonably believes the subject is a juvenile;
- J. Skin to skin touching of a subject or officer's genitals (e.g. testicles, penis, labia, clitoris, vagina) is strictly prohibited. An unprompted touch of an officer by a subject does not constitute a violation of Policy;
- K. If confronted by a uniformed officer, undercover officers shall follow the procedures for challenge and reply in accordance with the procedures in TB III-V, CHALLENGE & REPLY: PROCEDURES FOR IDENTIFYING FELLOW OFFICERS IN PLAINCLOTHES.

Emphasize:

1. **DO NOT MOVE** – even it means a suspect escapes;
2. Assume fellow officers do not recognize them;
3. Identify themselves as a police officer (e.g., "I'm a police officer, I'm Officer Smith") - Do not verbally identify yourself by your familiar name (e.g., "It's OK. It's me, Dave."); and
4. Listen and obey the challenging officer's instructions. Do not argue with the challenging officer.

By Order of



Sean Whent
Interim Chief of Police

Date Signed: 3-3-14