

# Oakland Police Department Office of the Inspector General

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## 4<sup>th</sup> Quarterly Report October – December 2021

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

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## Introduction

The 2022 4<sup>th</sup> Quarterly Report is being published under the name Office of Inspector General (OIG) and will be the last report published under this name. As of May 2022, the Department's OIG has assumed a new name, the "Office of Internal Accountability." The audits included in this report were initiated in 2021, prior to the name change.

Since publishing the 2021 3<sup>rd</sup> Quarterly Report, Lieutenant Hamann Nguyen has joined the Office as the Commander overseeing the Audit Unit, the PAS Unit, the Risk Analysis Unit and the Risk Impact Unit. Lieutenant Nguyen has served the Department for 21 years and most recently was the Commander for the Special Victims Section.

This final report for 2021 includes audits of the Department's management of confidential informants and Field Training Officer (FTO) selection, decertification, and training. The Department's Confidential Informant policy (Department General Order O-4) requires the OIG to conduct semi-annual reviews of informant files. Due to other priorities and the downward trend in the use of informants, reviews of informant files have been conducted less frequently. For this report, the OIG reviewed all four of the Department's active informants and focused on the time-period of October 1, 2019, to April 30, 2021.

Also included in this report is an audit of FTO selection, decertification, and training. Field Training Officers are responsible for training new officers just graduated from the academy. Department General Order B-08, *Field Training Program* outlines the selection, certification, and training requirements to ensure FTOs are suitable for this critical role. For this report, the OIG reviewed FTO nomination files and training records for 52 FTOs selected in 2020 and 2021.

Respectfully,



Acting Deputy Chief Clifford Wong  
Bureau of Risk Management  
Oakland Police Department

# Audit of the Oakland Police Department's Management of Its Managed Confidential Informants

*By Police Performance Auditor Rebecca Johnson*

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## Objectives

1. Determine whether all Managed Confidential Informants (MCI) signed up from October 1, 2019, to April 30, 2021, were processed according to the Oakland Police Department's established procedures in Departmental General Order O-4, *Informants*, effective June 6, 2014.
2. From October 1, 2019, to April 30, 2021, determine whether OPD's Managing Officers contacted their MCIs at least once every 90 days to update and maintain their active status.
3. From October 1, 2019, to April 30, 2021, determine whether OPD's Reviewing Supervisors met with the Managing Officers, on a quarterly basis, to discuss the MCIs' updated criminal history printouts and their progress in regard to the cooperation agreements.
4. For confidential informants who were deactivated anytime from October 1, 2019, to April 30, 2021, determine whether the respective Managing Officers documented

their reasons for deactivating the informants.

## Key Finding

- OPD does not provide formal training to its Informant Program Coordinators to ensure the oversight of the program is effective.

## Key Recommendation

- OPD utilizes three roles to manage its confidential informants: the Managing Officer, the Reviewing Supervisor, and the Informant Program Coordinator. To ensure personnel in each role can effectively execute their duties when managing an informant, OPD should ensure they are trained annually or, at minimum, annually train the Informant Program Coordinator, who is responsible for providing oversight for the Department's informant program.

## Reference

- Departmental General Order O-4, *Informants*, effective June 6, 2014

## Executive Summary

On May 3, 2021, the Office of Inspector General initiated its annual audit of the Oakland Police Department's informant files,<sup>1</sup> and this year's audit focused on four objectives related to OPD's management of its Managed Confidential Informants (MCI). First, the audit focused on whether the MCIs signed up during the audit period of October 1, 2019, to April 30, 2021, were processed according to OPD's established procedures in Departmental General Order O-4, *Informants*. Secondly, the audit focused on OPD's ability to demonstrate its ability to effectively manage its MCIs by contacting them at least once every 90 days to update and maintain their active status and by ensuring quarterly reviews are conducted to discuss the MCIs' updated criminal history printouts and their progress in regard to the cooperation agreements. Lastly, the audit focused on ensuring OPD documented its reasons for deactivating informants.

This audit included a review of four active MCIs at the time the audit was initiated, three of which were signed up during the audit period, and nine MCIs who were deactivated during the audit period. The most significant finding was that OPD does not provide formal training to its Informant Program Coordinators to ensure effective oversight of the program (**Finding #1**). As a result, there were negative findings in this audit that may have been prevented if OPD trained its Informant Program Coordinators.

Examples of negative findings in the audit that may have been prevented if OPD's Informant Program Coordinators were formally trained are found in the processing of MCIs. OPD reported there were three MCIs signed up from October 1, 2019, to April 30, 2021, and upon review of the MCIs' files, the following issues were found:

- OPD's Reviewing Supervisors prepared a *Prospective Informant Review Record*, but only two Reviewing Supervisors documented their approvals of the use of the MCIs on the forms, as required by OPD policy. Although indirect evidence indicated that a Reviewing Supervisor approved the use of the other MCI, they did not document their approval on the *Prospective Informant Review Record* (**Finding #4**).
- OPD's Informant Program Coordinator, or designee, approved two of the three MCIs *before* contacting the Western States Information Network (WSIN) to ascertain if the informants were identified as "Unreliable," which does not comply with policy (**Finding #5**). In addition, the MCIs' Western States Information Network standing was not documented on the *Informant Chronological Activity Records*, as required by policy (**Finding #5, Additional Observation**).
- OPD's Informant Program Coordinator approved two MCIs prior to the Managing Officers' use of the informants. For the other MCI, there was no documented reason in their file, by the

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<sup>1</sup> Departmental General Order O-4, *Informants*, effective June 6, 2014, pg. 15. Although the policy states OIG will conduct a review/inspection twice a year, the practice has been changed to once a year, but OPD has not updated its policy to reflect the change.

Reviewing Supervisor, to use them prior to the Informant Program Coordinator's approval  
**(Finding #6).**

Additional examples of negative findings in the audit that may have been prevented if OPD's Informant Program Coordinators were formally trained are found in the management of MCIs. OPD reported that there were four active MCIs during the audit period from October 1, 2019, to April 30, 2021, but because one MCI had been active less than 90 days during the audit period, the findings below relate to only three active MCIs. Upon review of the three MCIs' files, the following issues were found:

- Documented entries on the *Informant Chronological Activity Records* did not substantiate that OPD's Managing Officers contacted their MCIs at least once every 90 days, as required by policy, to update and maintain the MCIs' active status. However, it should be noted that OPD does not mandate its Managing Officers to deactivate an MCI unless there has been no contact with the MCI within 180 days **(Finding #7)**.
- The quarterly review meetings in which OPD's Reviewing Supervisors discuss with the Managing Officers the MCIs' updated criminal history printouts and their progress in regard to the cooperation agreements were not consistently documented on the *Informant Chronological Activity Records*, as required by policy. Therefore, for some months, there was no documented evidence to substantiate the quarterly meetings occurred **(Finding #8)**.

There were a few positive findings in the audit. When processing MCIs signed up from October 1, 2019, to April 30, 2021, OPD's Managing Officers verified the identity of the informants and evaluated the benefit and value of utilizing them, as required by policy **(Finding #2)**; and they informed the MCIs of their responsibilities, as required by policy **(Finding #3)**. In addition, OPD reported that there were nine files deactivated during the audit period, and upon review, the Auditor noted that the respective Managing Officers documented their reasons for deactivating the informants on an *Informant Deactivation Form* (TF-3339), as required by policy **(Finding #9)**.

OPD utilizes three roles to manage its confidential informants: the Managing Officer, the Reviewing Supervisor, and the Informant Program Coordinator. To ensure personnel in each role can effectively execute their duties when managing an informant, OPD should ensure they are trained annually or, at minimum, annually train the Informant Program Coordinator, who is responsible for providing oversight for the Department's informant program.

Overall, there were a total of three recommendations in this audit: one training related; one procedural; and one related to revising a form. For details, see the Findings and Recommendations Section on pages 22-24.

## Background

OPD defines a “Managed Confidential Informant” (MCI) as an informant who acts as an agent of an Oakland Police Officer and provides information or assistance concerning criminal activity to law enforcement in **two or more** investigations in exchange for financial compensation or consideration in a pending criminal case.<sup>2</sup> OPD documents the relationship on an *Informant Agreement Record*, indicating whether the MCI agreed to cooperate with law enforcement in investigations of criminal activity in exchange for prosecutorial or monetary consideration.

At OPD, there are three roles that are responsible for managing an MCI: the Managing Officer, the Reviewing Supervisor, and the Informant Program Coordinator.

- The Managing Officer is any officer using and managing an MCI to conduct investigations of criminal activity or the seizure of contraband. The Managing Officer is also responsible for completing most of the documentation that is placed in the MCI’s file.
- The Reviewing Supervisor is the person to whom the Managing Officer reports; the person who reviews the work of the Managing Officer; and the person who discusses the informant’s progress in meeting the cooperation agreement with the Managing Officer.
- The Informant Program Coordinator is a supervisor who is responsible for approving all MCIs prior to use by a Managing Officer; maintaining a database of all confidential informants; maintaining all original confidential informant documentation received from the Managing Officer and/or Reviewing Supervisor; maintaining the active or deactivated confidential informant files in a secure location; and reviewing the informant files semi-annually to ensure the files are complete and current.

### **Prior Audit**

The Office of Inspector General published its prior annual confidential informant audit, entitled *Review of the Oakland Police Department’s Documentation of Its Managed Confidential Informants*, in its [4<sup>th</sup> Quarterly Progress Report \(October – December 2019\)](#). The review focused on the Oakland Police Department’s management of confidential informants and resulted in seven recommendations. Five of the recommendations were implemented, one was not implemented, and one was not applicable and therefore OIG was unable to assess it.

### **Recommendation #1**

The Department requires the Managing Officers’ respective Reviewing Supervisors to verify the identity of the prospective informant and evaluate the benefit and value of utilizing the person, but the Department’s Reviewing Supervisors did not document their verifications or evaluations on the *Prospective Informant Review Record* as required. In addition, the Department requires its Reviewing

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<sup>2</sup> Departmental General Order O-4, *Informants*, effective June 6, 2014, pgs. 1-2.

Supervisors to conduct additional evaluations (i.e., Managing Officer's abilities; risks to the informant, etc.) prior to approving an informant, and again, the Department's Reviewing Supervisors did not document their evaluations on the *Prospective Informant Review Record*. The OIG recommended that OPD revise its policy, incorporating language that mandates its Reviewing Supervisors to document the outcome of their verifications, evaluations, and assessments on the *Prospective Informant Review Record*.

**Status: Implemented**

OPD revised its *Prospective Informant Review Record* form by incorporating language stating, "I verified that the above listed evaluations were conducted, and I agree with the prospective Managing Officer's overall evaluation."

**Recommendation #2**

The Managing Officers' Reviewing Supervisors prepared *Prospective Informant Review Records* but did not document their respective approvals of the use of three MCIs on the forms. The OIG recommended that OPD revise its *Prospective Informant Review Record* form to include, for example, a box to check, stating that, "I approve this confidential informant," and instructions that the Reviewing Supervisors shall include a narrative in the "Notes" section documenting their evaluation.

**Status: Implemented**

As stated above, OPD revised its *Prospective Informant Review Record* form, and the revisions also included a checkbox and language next to it stating, "I approve of the use of the prospective informant."

**Recommendation #3**

The *Prospective Informant Review Record* form includes a box that must be checked to indicate the Reviewing Supervisor verified the "prospective informant" complied with California Penal Code Section 142.<sup>3</sup> Upon review of the penal code, the Auditor noted the law refers to the actions of police officers and not the prospective informant. OIG recommended that OPD revise the policy, incorporating language that clarifies what is expected of the Reviewing Supervisor in relation to Penal Code 142.

**Status: Implemented**

OPD revised the language on the *Prospective Informant Review Record* pertaining to Penal Code Section 142. The form now states, "Using the prospective informant will be in compliance with Penal Code Section 142. (I have ensured the informant has no outstanding warrants OR the informant has been arrested and/or cited and released.)" In addition, the form, in the "Notes" section, has additional wording: "Was the prospective informant arrested? If yes, list the

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<sup>3</sup> California Penal Code 142 reads, in part, "Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest that person shall be punished by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment..."

charges,” and “Does the prospective informant have any outstanding warrants?” The newly revised form was published and uploaded in OPD’s PowerDMS system<sup>4</sup> for employee use on July 23, 2020.

#### **Recommendation #4**

During the audit period from January 1, 2017, to September 30, 2019, there were six active MCIs, and there was documentation in the respective informant files on the *Informant Chronological Activity Records*<sup>5</sup> (ICARs) to substantiate that three MCIs were contacted by their respective Managing Officers at least once every 90 days, as required by policy. However, the type of contact the Department’s Managing Officers were having with the MCIs was not documented on the ICARs. OIG recommended that OPD ensure its Managing Officers document the type of contact (i.e., face-to-face meeting, email, text, phone call, etc.) they have with MCIs on the ICARs.

#### **Status: Implemented**

OPD revised its *Informant Chronological Activity Record*, which now includes the words “Date of Contact” in the “Date/Time” column and five options to choose in the “Activity” column: (1) In-Person, (2) Phone Call, (3) Text, (4) Email, and (5) Other.

#### **Recommendation #5**

The Auditor was unable to determine whether the Department’s Managing Officers were making entries on the *Informant Chronological Activity Record* (ICAR) within seven calendar days upon contact with confidential informants, as required by policy, because there was only one date and time entered on the ICAR. OIG recommended that OPD ensure there is a date/time entered on the ICAR that shows when the Managing Officer made the entry and there is a date/time in the “Activity” section of the ICAR to show the date/time the Managing Officer made contact (i.e., face to face meeting, phone call, email message, etc.) with the informant.

#### **Status: Implemented**

As stated above, OPD revised its *Informant Chronological Activity Record*, and the revisions included an additional row, under “Date of Contact” that states “Date of Entry” in the “Date/Time” column. The form allows the Managing Officer to enter up to 10 “Dates of Contact” and the type and 10 “Dates of Entry” on one form. The newly revised form was published and uploaded in OPD’s PowerDMS system for employee use on July 23, 2020.

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<sup>4</sup> An electronic system OPD uses to maintain its policies, procedures, forms, and employee policy training records.

<sup>5</sup> DGO O-4, pg. 9, states, “An Informant Chronological Activity Record (TF-3278) is a [form in which OPD personnel (i.e., Managing Officer, Informant Program Coordinator, or Reviewing Supervisor) document the] chronological listing of an informant’s activity.”

### **Recommendation #6**

Three of the six active confidential informants were not contacted by their respective Managing Officers at least once every 90 days, as required by policy. The Department should ensure its Managing Officers are contacting confidential informants every 90 days to update the informants' active status.

#### **Status: Not Implemented**

Via email dated June 19, 2020, OPD stated its Informant Program Coordinator will send out reminders every quarter and review the files to ensure OPD's Managing Officers comply with contacting confidential informants every 90 days to update the informants' active status. However, upon request, OIG did not receive documented evidence of said reminders. In addition, in Finding #7 of the current audit, OIG found that, during the audit period of October 1, 2019, to April 30, 2021, OPD's Managing Officers did not contact their MCIs at least once every 90 days to update the informants' active status.

### **Recommendation #7**

One confidential informant was not deactivated as mandated by policy. There had been 263 days since the Managing Officer documented contact with the informant, and according to policy, the Department requires its Managing officers to deactivate an informant when there has been no contact with the informant within 180 days. The Department should ensure its Managing Officers deactivate confidential informants when there has been no contact with them within 180 days.

#### **Status: Currently Not Applicable and therefore Was Not Assessed**

Via email dated June 19, 2020, OPD stated its Informant Program Coordinator will send out reminders every quarter and review the files to ensure OPD's Managing Officers are deactivating confidential informants when there has been no contact with them within 180 days. In this audit, there were no instances in which an MCI was not contacted by a Managing Officer within 180 days or more. Therefore, OIG determined the implementation of this recommendation is not applicable at this time and was not assessed.

## **Scope/Population**

This year's audit focused on four objectives. First, the audit focused whether the MCIs signed up during the audit period were processed according to OPD's established procedures in Departmental General Order O-4, *Informants*, effective June 6, 2014, as follows:

1. Managing Officers verified the identity of their informants and evaluated the benefit and value of utilizing them.
2. Managing Officers informed the informants of their responsibilities as MCIs.
3. Reviewing Supervisors prepared a *Prospective Informant Review Record* and documented their approvals of the informants.
4. The Informant Program Coordinator, or designee, contacted the Western States Information Network to ascertain if any of the informants were identified as "Unreliable" before approval.

5. The Informant Program Coordinator, or designee, approved the informants prior to the Managing Officers' use of the informants.

Secondly, the audit focused on OPD's ability to demonstrate its ability to effectively manage its MCIs by:

- Contacting them at least once every 90 days to update and maintain their active status.
- Ensuring quarterly reviews are conducted to discuss the MCIs' updated criminal history printouts and their progress in regard to the cooperation agreements.

Lastly, the audit focused on ensuring OPD documented its reasons for deactivating informants.

The audit period was October 1, 2019, to April 30, 2021.

### **Population**

For the audit period, the Office of Inspector General reviewed two types of MCI files: active and deactivated. OPD reported there were four (4) active files and nine (9) files deactivated during the review period.

## **Methodology**

See **Appendix A** for the methodology.

## **Findings**

### **FINDING #1**

**OPD does not provide formal training to its Informant Program Coordinators to ensure effective oversight of the program.**

OPD requires its Informant Program Coordinator to review the informant files semi-annually to ensure the files are complete and current.<sup>6</sup>

On May 4, 2021, at the onset of the audit, the Auditor emailed OPD's Training Section Lieutenant the following message, "OIG is conducting its annual Confidential Informant Audit and we would like to interview OPD's Confidential Informant Subject Matter Expert or Instructor. Is there someone we can contact?" The Training Section Lieutenant responded, "The supervisor of Intel typically controls it, so I would consider two people: [the former Informant Program Coordinator or the current Informant Program Coordinator]."

On May 25, 2021, OIG's Lead Auditor and former Inspector General met with OPD's Informant Program Coordinator. The Auditor asked, "Does OPD offer a Confidential Informant class?" The IPC stated, "There is no formal class being taught right now. Most informant training is being done by senior officers

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<sup>6</sup> DGO O-4, pg. 15.

helping junior officers; or officers review Departmental General Order O-4, *Informants*, in PowerDMS; or officers call the Intelligence Unit.”

In addition, on September 2, 2021, after the Auditor reviewed the MCIs’ *Informant Agreement Records* with OPD’s Informant Program Coordinator, the IPC stated that the only training he and his three predecessors received upon being assigned as the Informant Program Coordinator was an informal conversation. The IPC further stated that there should be some type of training provided to the IPC other than an informal conversation [to ensure effective oversight of the program].

The Auditor agreed with the Informant Program Coordinator’s assessment. If OPD provides formal training for the person who is assigned to its Informant Program Coordinator role, the negative findings in this audit are more likely to be prevented.

## **FINDING #2**

**There were three active MCIs signed up during the audit period of October 1, 2019, to April 30, 2021, and based on documented evidence in the informants’ files, OPD’s Managing Officers verified the identity of the informants and evaluated the benefit and value of utilizing them, as required by policy.**

OPD requires its Managing Officers to verify the identity of an informant and evaluate the benefit and value of utilizing the person as an informant by considering the risk to the public, the informant’s criminal history, circumstances of a current arrest or charges, and the informant’s reliability and dependability.<sup>7</sup> Specifically, the MCI file must include the following documentation:

- Identity verification (e.g., California Driver’s License, Alameda County Consolidated Records Information Management System,<sup>8</sup> Criminal Identification and Information<sup>9</sup>);
- Criminal history records (CRIMS, CII) documentation printouts;
- Department of Motor Vehicles Printout; and
- A current photograph of the informant.<sup>10</sup>

During the audit period of October 1, 2019, to April 30, 2021, there were three active MCIs who were signed up, and upon review of their respective informant files, the Auditor noted the required documentation was present in the files, illustrating that the Managing Officers verified the identity of the informants and evaluated the benefit and value of utilizing them.

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<sup>7</sup> DGO O-4, pg. 4.

<sup>8</sup> CRIMS is an Alameda County database that contains criminal records and related information such as warrants, probation, parole, etc. The Auditor noted that the printout included the most updated information regarding the MCI. It showed the informant’s Alameda County warrants, pending cases, and/or supervision conditions ordered by the Court (e.g., a four-way search clause, stay away order to stay away from a location; requirement to maintain regular employment, etc.).

<sup>9</sup> Anyone who has ever been fingerprinted, even if for employment purposes, has a CII record. The Auditor noted that the printout provides a detailed explanation/analysis of the informant’s arrests and sentences.

<sup>10</sup> DGO O-4, pg. 7.

### **FINDING #3**

**There were three active MCIs who had an initial start date from October 1, 2019, to April 30, 2021, and based on documented evidence in the informants' files, OPD's Managing Officers informed the informants of their responsibilities, as required by policy.**

To ensure a prospective informant is aware of their responsibilities, OPD requires the Managing Officer to complete the two forms below, ensure the informant reads and signs the forms prior to performing services for the Department, and has a sworn officer personally witness the informant's review and signing of both forms.<sup>11</sup>

- *Informant Agreement Record* (TF-3276)—documents the agreement between the MCI and OPD, which includes the MCI's offer to cooperate with the Department in a criminal investigation(s) in exchange for financial or prosecutorial consideration.
- *Informant Regulations Record* (TF3110)—documents the regulations the MCI must follow to remain an informant for OPD. For example, the form includes language that states the MCI agrees to not possess any illegal weapons or firearms, follow the instructions and be truthful with their Managing Officer, and not use their association with OPD for personal gain.

Once completed, the forms are to be placed in the informant file and forwarded to the Reviewing Supervisor for review and approval.<sup>12</sup>

There were three active MCIs who had initial start dates from October 1, 2019, to April 30, 2021, and upon review of the informants' files, the Auditor noted that each file included an *Informant Agreement Record* and an *Informant Regulations Record*. All forms were signed by the informant, the Managing Officer, the witness (sworn officer), and the Reviewing Supervisor, signifying that Managing Officers informed the informants of their responsibilities, as required by OPD policy.

### **FINDING #4**

**There were three active MCIs who had an initial start date from October 1, 2019, to April 30, 2021. Based on documented evidence in their informant files, OPD's Reviewing Supervisors prepared a *Prospective Informant Review Record*, but only two Reviewing Supervisors documented their approvals of the use of the MCIs on the forms, as required by policy. Although indirect evidence indicated that a Reviewing Supervisor approved the use of the other MCI, they did not document their approval on the *Prospective Informant Review Record*.**

For prospective informants, OPD requires the Reviewing Supervisor to complete three tasks:

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<sup>11</sup> DGO O-4, pgs. 6-7.

<sup>12</sup> DGO O-4, pg. 7.

- Evaluate the benefit and value of utilizing the person as an informant by considering the risk to the public, the informant's criminal history, circumstances of a current arrest or charges and the informant's reliability and dependability.
- Consider the officer's ability in managing the prospective informant.
- Review the informant file completed by the Managing Officer to ensure all the informant's information is complete and current and all forms are signed as required.

After evaluating the benefit and value of utilizing the person as an informant, considering the Managing Officer's ability in managing the prospective informant, and reviewing the informant file completed by the Managing Officer, the Reviewing Supervisor is required to prepare a *Prospective Informant Review Record* (TF-3338), indicating approval or denial.<sup>13</sup>

There were three active MCIs who had initial start dates during the audit period of October 1, 2019, and April 30, 2021, and upon review of the informant files, the Auditor noted that each file included a prepared *Prospective Informant Review Record* (TF-3338). Two Reviewing Supervisors documented their approvals of the use of the informants on the forms, as required by OPD policy, and there was one form in which there was no documented supervisory approval of the use of the informant.

Although one Reviewing Supervisor did not document their approval of the use of the informant on the *Prospective Informant Review Record*, the Auditor noted indirect evidence that substantiated the Reviewing Supervisor's approval of the use of the informant. In the "Notes" section of the *Prospective Informant Review Record* prepared by the Reviewing Supervisor, there were no comments (i.e., red flags) related to the informant documented in that section. Additionally, the same Reviewing Supervisor who completed the *Prospective Informant Review Record* also signed five months of *Informant Chronological Activity Records* (TF-3278). The Auditor deduced that if the Reviewing Supervisor disapproved of using the informant, they would not have signed five months of ICARs and would have noted red flags on the *Prospective Informant Review Record*.

Although indirect evidence minimized the risk that one of the MCIs was being used without a Reviewing Supervisor's approval, OPD should ensure its Reviewing Supervisors follow policy by explicitly documenting their approval of the use of an informant on the *Prospective Informant Review Record*.

#### **FINDING #5**

**There were three active MCIs who had an initial start date during the audit period of October 1, 2019, to April 30, 2021. Based upon documented evidence in OPD's database of all confidential informants, OPD's Informant Program Coordinator, or designee, approved two of the three MCIs before contacting the Western States Information Network (WSIN) to ascertain if the informants were identified as "Unreliable," which does not comply with policy.**

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<sup>13</sup> DGO O-4, pgs. 7-8.

Whether a Reviewing Supervisor approves or denies the use of a prospective MCI, OPD requires the Reviewing Supervisor to forward the MCI file to its Informant Program Coordinator for final review and approval.<sup>14</sup>

Upon receipt and review of the file, the Informant Program Coordinator, or designee, is required to contact the [Western States Information Network \(WSIN\)](#) to ascertain if the prospective informant's standing has been identified as "Unreliable" before approval of any MCI is granted. If the informant has been identified as "Unreliable," OPD requires its IPC, or designee, to complete the four tasks below:

- Deny further use of the informant;
- Email (with read receipt) the Managing Officer and the approving Reviewing Supervisor, advising them that further use of the informant is denied;
- Place a copy of the email in the confidential informant file; and
- Note the [denial/unreliable status] in the confidential informant database.<sup>15</sup>

If the informant had not been identified as "Unreliable," and the Informant Program Coordinator, or designee, approves the use of the informant, the IPC, or designee, is required to provide the Managing Officer with a new or existing Informant File Number.

There were three active MCIs who had an initial start date from October 1, 2019, to April 30, 2021. To determine whether OPD's Informant Program Coordinator, or designee, contacted WSIN before approving the informants, the Auditor reviewed the confidential informant database maintained by the IPC, which includes confidential informant numbers; confidential informant names, dates of birth; managing officers names; approving Reviewing Supervisors/Commanders; and activation and deactivation dates.

Upon review of the confidential informant database, the Auditor noted the following data fields:

- Confidential informant number
- Date
- [Managing] Officer and serial number
- Unit
- Contact number
- Current [Reviewing] Supervisor
- Approval
- WSIN check
- Deactivation

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<sup>14</sup> DGO O-4, pg. 6.

<sup>15</sup> DGO O-4, pgs. 8-9.

- Last contact
- Notes\*

Using the Informant File Numbers of the three active MCIs who had an initial start date during the audit period of October 1, 2019, and April 30, 2021, the Auditor noted that the date entered in the “Approval” data field for two of the informants was earlier than the date entered in the “WSIN Check” data field. Specifically, for one informant, the WSIN check was done 57 days after the approval date, and for the other informant, the WSIN check was done 70 days after the approval date. The Auditor did note that for one of the three informants, the WSIN check complied with policy since the date entered in the “WSIN Check” data field was five days earlier than the date entered in the “Approval” data field.

On November 12, 2021, the Auditor met with the former Informant Program Coordinator and inquired about the WSIN check being done after an informant was approved. The IPC responded that it is unknown why the WSIN check was delayed, but it should have been done prior to approval. Although the WSIN check did not return a negative response, if the informant had been identified as “unreliable,” according to the IPC, “OPD would have to immediately deactivate the informant.” The Auditor noted that the incumbent IPC would not know why the WSIN check was delayed for one of the informants since he was assigned as OPD’s IPC in January 2022, after the sign up and approval of the informant in question.

Approving an informant for use before determining whether the person has been identified as “unreliable” shows OPD is not managing the use of its confidential informants in adherence with policy.

#### **Additional Observation**

**The MCIs’ Western States Information Network standing was not documented on the *Informant Chronological Activity Records*, as required by policy.**

After contacting the Western States Information Network to determine whether an informant’s standing has been identified as “unreliable,” OPD’s Informant Program Coordinator is required to document the informant’s standings on the *Informant Chronological Activity Record* (TF-3278) in the informant’s file.<sup>16</sup> Upon reviewing the ICARs in the three Managed Confidential Informants’ files, the Auditor noted that there was no documentation of the informants’ standing on the ICARs, as required in policy. The Auditor informed OPD’s Informant Program Coordinator about the absence of the WSIN standing on the ICARs and the policy requirement that such information be documented on the ICARs, and the IPC acknowledged that it should have been done.

#### **FINDING #6**

**There were three active MCIs who had an initial start date from October 1, 2019, to April 30, 2021, and based upon documented evidence in their respective informant files, OPD’s Informant Program Coordinator approved two of them prior to the Managing Officers’ use of the informants. For the**

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<sup>16</sup> DGO O-4, pg. 8.

**other MCI, there was no documented reason in their file, by the Reviewing Supervisor, to use them prior to the Informant Program Coordinator's approval.**

As stated in Finding #4, whether a Reviewing Supervisor approves or denies the use of a prospective MCI, OPD requires the Reviewing Supervisor to forward the MCI file to its Informant Program Coordinator for final review and approval. But in the event a law enforcement response is necessary prior to the IPC's final review and approval, the MCI may be utilized with explicit and documented approval by the Reviewing Supervisor.<sup>17</sup>

For all confidential informants with an initial start date from October 1, 2019, to April 30, 2021, to determine whether the Informant Program Coordinator approved each confidential informant prior to the Managing Officer's use of the person, the Auditor reviewed the confidential informant database maintained by the IPC, which includes confidential informant numbers; confidential informant names, dates of birth; Managing Officers' names; approving Reviewing Supervisors/Commanders; and activation and deactivation dates.

Using the Informant File Numbers of the three active MCIs who had an initial start date from October 1, 2019, to April 30, 2021, the Auditor noted that the date entered in the "Approval" data field for one of the informants was after the date the Managing Officer documented on the *Informant Chronological Activity Record* (TF-3278) as their official use of the informant for police business. The MCI was used 15 days prior to the date in the "Approval" data field. However, there was not a documented reason for using the informant prior to the IPC's approval on the ICARs, or anywhere else in the file, from the Reviewing Supervisor, as required by policy.

The absence of the Reviewing Supervisor's explicit documentation for use of the informant prior to IPC approval is contrary to policy. The audit was unable to determine if this was simply an issue of documenting a valid explanation, or the use of an MCI prior to approval without a reason. The latter creates risk that an unsuitable informant acts at the direction of OPD.

#### **FINDING #7**

**During the audit period of October 1, 2019, to April 30, 2021, documented entries on the *Informant Chronological Activity Records* did not substantiate that OPD's Managing Officers contacted their MCIs at least once every 90 days, as required by policy, to update and maintain the MCIs' active status. However, it should be noted that OPD does not mandate its Managing Officers to deactivate an MCI unless there has been no contact with the MCI within 180 days.**

When managing an MCI, a Managing Officer is required to contact their MCI at least once every 90 days to update and maintain the MCI's active status. In addition, OPD requires the Managing Officer to

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<sup>17</sup> DGO O-4, pg. 6.

document the contact (i.e., face to face meetings, phone calls, email/text messages, and written correspondence) on an *Informant Chronological Activity Record*.<sup>18</sup>

During the audit period of October 1, 2019, to April 30, 2021, OPD reported that there were four active MCIs. To determine whether OPD's Managing Officers contacted their MCIs at least once every 90 days to update and maintain their active status, the Auditor reviewed the ICARs in the MCIs' files and sought the type of contact, the date of the contact, and any notes related to the entry on the ICAR that indicated contact was made. Once found, the Auditor calculated the number of days that lapsed between entries related to contact with an MCI, noting any number of days that exceeded 90 days.

Upon review of the *Informant Chronological Activity Records*, the Auditor exempted OPD from contacting one of the MCIs because the MCI was active less than 90 days during the audit period. For the other three MCIs, documented entries on the ICARs did not substantiate that OPD's Managing Officers contacted the MCIs at least once every 90 days, as required by policy, to update and maintain the MCIs' active status. The issues found in the MCIs' files are as follows:

- For one MCI, there was no documented contact with the MCI on the ICARs for 160 consecutive days.
- For another MCI, there was no documented contact with the MCI on the ICARs for 156 consecutive days.
- For the third MCI, there were two instances in which the number of days that lapsed between entries related to contact with the MCI on the ICARs exceeded 90 days. In one instance, there was no documented contact with the MCI on the ICARs for 122 consecutive days, and in the other instance, there was no documented contact with the MCI for 121 consecutive days.

Although three of OPD's Managing Officers did not contact their MCIs at least once every 90 days to update and maintain their informants' active status, the MCIs remained active since OPD does not mandate its Managing Officers to deactivate an MCI unless there has been no contact with the MCI within 180 days.<sup>19</sup>

#### **FINDING #8**

**During the audit period of October 1, 2019, to April 30, 2021, the quarterly review meetings in which OPD's Reviewing Supervisors discuss with the Managing Officers the MCIs' updated criminal history printouts and their progress in regard to the cooperation agreements were not consistently documented on the *Informant Chronological Activity Records*, as required by policy. Therefore, for some months, there was no documented evidence that the quarterly meetings occurred.**

OPD requires its Managing Officers to conduct quarterly inquiries of their MCIs' [criminal histories] in the following systems:

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<sup>18</sup> DGO O-4, pgs. 9-10.

<sup>19</sup> DGO O-4, pg. 12.

- Wanted Persons System;
- Department of Motor Vehicles;
- Alameda County Consolidated Records Information Management System; and
- Criminal Identification and Information.

Subsequently, OPD requires the Managing Officers to review and print out the MCIs' criminal history inquiries. In addition, OPD requires the Reviewing Supervisors to review the MCIs' updated criminal history printouts and meet with the Managing Officers to discuss the MCIs' printouts and their progress in regard to the cooperation agreements. OPD requires that these meetings be documented in the March, June, September, and December *Informant Chronological Activity Records* and that all documents (the printouts and the ICARs) be forwarded to the Informant Program Coordinator for inclusion in the MCI files.<sup>20</sup>

During the audit period of October 1, 2019, to April 30, 2021, OPD reported that there were four active MCIs. To determine whether OPD's Reviewing Supervisors met with the Managing Officers on a quarterly basis, the Auditor reviewed the *Informant Chronological Activity Records*, in the MCIs' files, for the months of December 2019, March 2020, June 2020, September 2020, December 2020, and March 2021. The Auditor sought the documentation of the meeting on the ICARs.

Upon review of the *Informant Chronological Activity Records*, the Auditor exempted OPD from meeting with one of its Managing Officers on a quarterly basis, because as stated in Finding #6, the MCI was active less than 90 days during the audit period. For the other three MCIs, the quarterly review meetings were not consistently documented on the ICARs. Therefore, for some months, there was no documented evidence that the quarterly meetings occurred. The issues found in the MCIs' files are as follows:

- For one MCI, there was no documentation on two ICARs that indicated that the required quarterly meetings were held.
- For another MCI, there was no documentation on three ICARs that indicated that the required quarterly meetings were held. The Auditor also noted that another quarterly meeting should have been held for this MCI, but the ICAR for the month the meeting should have been held was not in the MCI's file.
- For the third MCI, there was no documentation on one ICAR that indicated that the required quarterly meeting was held. The Auditor also noted that another quarterly meeting should have been held for this MCI, but the ICAR for the month the meeting should have been held was not in the MCI's file.

The quarterly review meetings are important because they allow the Reviewing Supervisor and the Managing Officer to consistently inspect the MCI's criminal history to ensure there is no risk to the

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<sup>20</sup> DGO O-4, pgs. 13-15.

public by using the MCI and to assess the reliability and dependability of the MCI. When the quarterly meetings are not consistently documented on the *Informant Chronological Activity Reports*, as required by policy, there is no documented evidence that the MCI's risk to the public and their reliability and dependability are consistently being evaluated for them to remain active.

### **Two Additional Observations**

#### **Additional Observation #1**

**A review of the MCI files indicated that there are four forms that should be omitted from the files until there is a need for the Managing Officer to complete them. Currently, the policy requires the forms to be included in the informants' files even if they are not applicable.**

OPD requires the Managing Officer to prepare an MCI file, and the file must include the following forms and printouts:<sup>21</sup>

- a) *Informant Chronological Activity Record Log* (TF-3278)
- b) *Informant Regulations Record* (TF-3110)
- c) *Informant Agreement Record* (TF-3276)
- d) *Prospective Informant Review Record* (TF-3338)
- e) *Informant Personal Record* (TF-3111)
- f) *Informant Payment Record* (TF-3361)
- g) *Informant Accomplishment Record* (TF-3362)
- h) *Informant Deactivation Form* (TF-3339)
- i) *Temporary Confidential Informant Record* (TF-3363)
- j) Identity verification (e.g., California Driver's License, Alameda County Consolidated Records Information Management System and the Criminal Identification and Information printouts) documentation in the ICAR (TF-3278)
- k) Criminal history records (CRIMS, CII) documentation printouts
- l) Department of Motor Vehicles Printout
- m) A current photograph of the informant

Upon reviewing the four active informant files for this audit, resulting in Findings #1-8, the Auditor noted that there were forms in the file that did not serve a purpose because, although they were signed, there was no information documented on them since the occasion for their use did not occur, rendering them not applicable at the time the file was created. OPD should not require the following four forms to be included in the informant files unless the need to complete them arises.

*Temporary Confidential Informant Record* (TF-3363)— A Temporary Confidential Informant is an informant who acts as an agent of an Oakland Police Officer by providing information and/or assistance concerning criminal activity to law enforcement in **one** investigation in exchange for

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<sup>21</sup> DGO O-4, pg. 5

financial compensation or consideration in a pending criminal case. A *Temporary Confidential Informant*

*Agreement Record* (TF-3363) is completed to document the facts surrounding the informant's information and/or assistance.<sup>22</sup> The Auditor noted that this form was signed the same day as an *Informant Agreement Record*, which is used for an MCI. However, an informant cannot be a Temporary Confidential Informant at the same time they are an MCI.

*Informant Payment Record* (TF-3361)—This form is used to document payments given to informants who assist OPD in investigations involving criminal activity or the seizure of contraband. The form serves no purpose if it is not completed because OPD has not given the informant a payment. Some of the data fields on this form are Case information; Amount Requested; Amount Approved; Purpose (information only, controlled purchase, reward, etc.); Fund Source; Fund Distribution Log (Received from, Given To, Signature, Amount, Date), and Informant Payment Receipt (Payer, Witness, Signature, Amount). Again, when these data fields are blank, the form serves no purpose.

*Informant Accomplishment Record* (TF-3362)—This form is used to document OPD's achievement(s) on a case when the informant assists OPD in investigations involving criminal activity or the seizure of contraband, and arrests are made and/or evidence is recovered. The form serves no purpose if it is not completed because there was nothing noteworthy to report. Again, when these data fields are blank, the form serves no purpose.

*Informant Deactivation Form* (TF-3339)—This form is used to document the deactivation of an informant. If an informant is active, the form serves no purpose. See Finding #9 for a detailed list of the data fields on the form. When the data fields on this form are blank, the form serves no purpose.

## **Additional Observation #2**

### **OPD's Informant Program Coordinator Recommends Consolidation of the *Informant Payment Record* and the *Informant Accomplishment Record*.**

When the Auditor advised OPD's Informant Program Coordinator of the recommendation to omit the four forms above from the confidential informant file until there is a need to complete them, the former IPC agreed and recommended that the *Informant Payment Record* and the *Informant Accomplishment Record* be consolidated to simplify the use of the forms for the Managing Officer and the Reviewing Supervisor. The Auditor agreed with the IPC since there should be some type of informant accomplishment associated with an informant payment for tracking purposes.

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<sup>22</sup> DGO O-4, pgs. 2, 4.

**FINDING #9**

**During the audit period of October 1, 2019, to April 30, 2021, OPD reported that there were nine deactivated files, and upon review, the Auditor noted that the respective Managing Officers documented their reasons for deactivating the informants on an *Informant Deactivation Form (TF-3339)*, as required by policy.**

OPD requires the Managing Officer to *consider* the following criteria in determining whether to deactivate an informant:

- The current investigation is completed;
- The Agreement is terminated by the informant or the Managing Officer;
- The informant is incarcerated;
- There is no immediate use of the informant anticipated; and
- The informant has been identified as being “undesirable.”

OPD requires the Managing Officer to deactivate an informant:

- When there has been no contact with the informant within 180 days;
- Prior to the Managing Officer’s separation from the Department;
- When it is discovered that the informant is deceased; or
- If the Informant Program Coordinator deems the informant “Unreliable” or “Undesirable.”

Although OPD’s policy states an *Unreliable/Undesirable Informant Notification Record (TF-3339)* is to be prepared if a Managing Officer determines that an informant is unreliable or undesirable,<sup>23</sup> in practice, the form has been revised. It is called an *Informant Deactivation Form (TF-3339)* and a Managing Officer prepares one when an informant is deactivated. The Auditor reviewed the *Informant Deactivation Form* and noted that the form included the following boxes for entries:

- Informant Number
- Name of Informant
- Managing Officer
- Reporting Date
- Reason for deactivation (check completed contract, unreliable, unsuitable, or other)
- Detail circumstances (required)
- Recommended Disposition

During the audit period of October 1, 2019, to April 30, 2021, OPD reported that there were nine deactivated files, and upon review, the Auditor found that the respective Managing Officers

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<sup>23</sup> DGO O-4, pgs. 11-12.

documented their reasons for deactivating the informants on an *Informant Deactivation Form* (TF-3339), as required by policy. The reasons for the deactivations were as follows:

- 4 completed contracts
- 2 unreliable
- 2 unsuitable
- 1 other with a documented reason attached

## Recommendations

Findings	Recommendations
<p><b><u>Finding #1</u></b></p> <p>OPD does not provide formal training to its Informant Program Coordinators to ensure the effective oversight of the program.</p>	<p><b><u>Recommendation #1</u></b></p> <p>OPD utilizes three roles to manage its confidential informants: the Managing Officer, the Reviewing Supervisor, and the Informant Program Coordinator. To ensure personnel in each position can effectively execute their duties when managing an informant, OPD should ensure they are trained annually or, at minimum, annually train the Informant Program Coordinator, who is responsible for providing oversight for the Department’s informant program.</p>
<p><b><u>Finding #4</u></b></p> <p>There were three active MCIs who had an initial start date from of October 1, 2019, to April 30, 2021. Based on documented evidence in their informant files, OPD’s Reviewing Supervisors prepared a <i>Prospective Informant Review Record</i>, but only two Reviewing Supervisors documented their approvals of the use of the MCIs on the forms, as required by policy. Although indirect evidence indicated that a Reviewing Supervisor approved the use of the other MCI, they did not document their approval on the <i>Prospective Informant Review Record</i>.</p>	<p><b><u>Same as Recommendation #1</u></b></p>

**Findings**

**Recommendations**

<p><b><u>Finding #5</u></b></p> <p>There were three active MCIs who had an initial start date during the audit period of October 1, 2019, to April 30, 2021. Based upon documented evidence in OPD’s database of all confidential informants, OPD’s Informant Program Coordinator, or designee, approved two of the three MCIs before contacting the Western States Information Network (WSIN) to ascertain if the informants were identified as “Unreliable,” which does not comply with policy.</p> <p><b><u>Finding #5 (Additional Observation)</u></b></p> <p>The MCIs’ Western States Information Network standing was not documented on the <i>Informant Chronological Activity Records</i>, as required by policy.</p>	<p><b><u>Same as Recommendation #1</u></b></p>
<p><b><u>Finding #6</u></b></p> <p>There were three active MCIs who had an initial start date from of October 1, 2019, to April 30, 2021, and based upon documented evidence in their respective informant files, OPD’s Informant Program Coordinator approved two of them prior to the Managing Officers’ use of the informants. For the other MCI, there was no documented reason in their file, by the Reviewing Supervisor, to use them prior to the Informant Program Coordinator’s approval.</p>	<p><b><u>Same as Recommendation #1</u></b></p>
<p><b><u>Finding #7</u></b></p> <p>During the audit period of October 1, 2019, to April 30, 2021, documented entries on the <i>Informant Chronological Activity Records</i> did not substantiate that OPD’s Managing Officers contacted their MCIs at least once every 90 days, as required by policy, to update and maintain the</p>	<p><b><u>Same as Recommendation #1</u></b></p>

**Findings**

**Recommendations**

<p>MCI's active status. However, it should be noted that OPD does not mandate its Managing Officers to deactivate an MCI unless there has been no contact with the MCI within 180 days.</p>	
<p><b><u>Finding #8</u></b></p> <p>During the audit period of October 1, 2019, to April 30, 2021, the quarterly review meetings in which OPD's Reviewing Supervisors discuss with the Managing Officers the MCI's updated criminal history printouts and their progress in regard to the cooperation agreements were not consistently documented on the Informant Chronological Activity Records, as required by policy. Therefore, for some months, there was no documented evidence that the quarterly meetings occurred.</p> <p><b><u>Finding #8 (Additional Observation #1)</u></b></p> <p>A review of the MCI files indicated that there are four forms that should be omitted from the files until there is a need for the Managing Officer to complete them. Currently, the policy requires the forms to be included in the informants' files even if they are not applicable.</p> <p><b><u>Finding #8 (Additional Observation #2)</u></b></p> <p>OPD's Informant Program Coordinator recommended the consolidation of the <i>Informant Payment Record</i> and the <i>Informant Accomplishment Record</i>.</p>	<p><b><u>Same as Recommendation #1</u></b></p> <p><b><u>Recommendation #2</u></b></p> <p>OPD should not require its Managing Officers to insert blank forms in the MCI files when the need to complete them has not occurred. The forms serve no purpose unless they are completed. Therefore, it is recommended that the four forms below be omitted from the files until there is a need to complete them and that Departmental General Order, <i>Informants</i>, effective June 6, 2014, be revised to reflect the change:</p> <ul style="list-style-type: none"> <li>• <i>Informant Payment Record</i> (TF-3361)</li> <li>• <i>Informant Accomplishment Record</i> (TF-3362)</li> <li>• <i>Informant Deactivation Form</i> (TF-3339)</li> <li>• <i>Temporary Confidential Informant Personal Record</i> (TF-3363)</li> </ul> <p><b><u>Recommendation #3</u></b></p> <p>Since there should be some type of informant accomplishment associated with an informant payment, OPD should consolidate the <i>Informant Payment Record</i> and the <i>Informant Accomplishment Record</i> for tracking purposes.</p>

# APPENDIX A

## Methodology

To conduct the audit, the Auditor took the following steps:

### Policy Review

Reviewed Departmental General Order 0-4, *Informants*, effective June 6, 2014, which is the Oakland Police Department's policy related to the control and management of confidential informants.

### Interview

Met with the Oakland Police Department's Informant Program Coordinator to gain information about the Department's current practices for managing and controlling confidential informants.

### Access to Confidential Informant Files

Requested and received from the Informant Program Coordinator access to the Department's active and deactivated confidential informant files.

**Objective 1 has five parts (Objective 1A through 1E) and relates to all MCIs signed up during the audit period of October 1, 2019, to April 30, 2021:**

### Objective 1A

To determine whether the Managing Officers verified the identity of the informants and evaluated the benefit and value of utilizing them, the Auditor sought documented evidence that the Managing Officers considered the risk to the public by utilizing the person; the person's criminal history; circumstances of the person's current arrest or charges; and the person's reliability and dependability. Specifically, the Auditor sought the following documented evidence in each confidential informant file:

- A current photograph of the person.
- The person's Department of Motor Vehicles printout.
- Printouts of the person's criminal history, including circumstances of the person's most current arrest or charges at the time the person became a prospective confidential informant.
- An assessment of the person's reliability documented on the *Informant Personal Record* (TF-3111).

### Objective 1B

To determine whether the Managing Officers informed the confidential informants of their responsibilities as informants, the Auditor sought two forms in each confidential informant file:

- A completed *Informant Regulations Record* (TF-3110).
- A completed *Informant Agreement Record* (TF-3276).

### Objective 1C

To determine whether the Reviewing Supervisors prepared a *Prospective Informant Review Record* (TF-3338) and documented their approval of the confidential informants, the Auditor sought the completed

document in each confidential informant file, with a notation of the respective Reviewing Supervisor's approval in the "Notes" section of the form.

On July 23, 2020, OPD published, in its PowerDMS system, a revised *Prospective Informant Review Record* (TF-3338) that includes a marked checkbox next to wording stating, "I approve of the use of the prospective informant," located in the "Supervisor Review" section at the bottom of the form. Therefore, for all confidential informants with an initial start date on or after July 23, 2020, to determine whether the Reviewing Supervisors prepared a *Prospective Informant Review Record* (TF-3338) and documented their approval of the confidential informants, the Auditor sought the completed document in each confidential informant file, with the checkbox marked next to the language stating, "I approve of the use of the prospective informant."

Whether using the old *Prospective Informant Review Record* form or the revised form, the Auditor sought the Reviewing Supervisor's printed name, signature, and date of signature at the bottom of the form.

#### **Objective 1D**

To determine whether the Informant Program Coordinator contacted the Western States Information Network to ascertain if any of the informants were identified as "Unreliable" before approval, the Auditor sought documentation from the IPC that shows their approval of each confidential informant and the date of their WSIN check. Upon receipt, the Auditor compared the date the IPC approved the informant to the date the WSIN check was completed. If IPC's WSIN check date was prior to the IPC's approval date, the Auditor deemed the IPC's WSIN check to have complied with policy.

In addition, the Auditor reviewed the *Informant Chronological Activity Record* (TF-3278) to determine whether the Informant Program Coordinator documented the results of the WSIN check on the ICAR. If the IPC's WSIN check was documented on the ICAR, the Auditor deemed the IPC to have complied with OPD policy.

#### **Objective 1E**

To determine whether the Informant Program Coordinator approved each confidential informant prior to the Managing Officer's use of the person, the Auditor sought documentation from the IPC that shows their approval of each confidential informant and the date of their approval. Upon receipt, the Auditor compared the date the IPC approved the informant to the date the Managing Officer documented on the *Informant Chronological Activity Record* (TF-3278) as their official use of the informant for police business. If the IPC's approval date was prior to the date of the Managing Officer's official use of the informant for police business, the Auditor deemed the Managing Officer's use of the informant in compliance with OPD policy.

#### **Objective 2**

For active informants from October 1, 2019, to April 30, 2021, to determine whether OPD's Managing Officers contacted their MCIs at least once every 90 days to update and maintain their active status, the Auditor reviewed the Informant Chronological Activity Records in the MCIs' files and sought the type of contact and the date of the contact, and any notes related to the entry on the ICAR that indicated

contact was made. Once found, the Auditor calculated the number of days that lapsed between entries related to contact with an MCI, noting any number of days that exceeded 90 days.

**Objective 3**

For active informants from October 1, 2019, to April 30, 2021, to determine whether OPD's Reviewing Supervisors met with the Managing Officers, on a quarterly basis, to discuss the MCIs' updated criminal history printouts and their progress in regard to the cooperation agreements, the Auditor reviewed the *Informant Chronological Activity Records*, in the MCIs' files, for the months of December 2019, March 2020, June 2020, September 2020, December 2020, and March 2021. The Auditor sought the documentation of the meeting on the ICARs.

**Objective 4**

For each confidential informant deactivated during the review period of October 1, 2019, to April 30, 2021, to determine whether the respective Managing Officer documented their reason(s) for deactivating the confidential informant, the Auditor sought a completed *Informant Deactivation Form* (TF-3339) in the deactivated confidential informant file. If the form was present in the file, the Auditor reviewed the documented reason (i.e., completed contract, unreliable, unsuitable, or other) for deactivation in the "Reason for Deactivation" section on the forms. The Auditor also reviewed the required supporting documentation in the "Detail Circumstances" section of the form.

## Audit of Field Training Officer Selection, Decertification, and Training

*By Auditors Mehiya Thomas and Kristin Burgess-Medeiros*

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### Objectives

1. Determine if all Field Training Officer (FTO) qualification requirements were documented and reviewed by the appropriate chain of command for the FTO selection processes conducted in 2020 and 2021.
2. Determine if FTO Oral Boards were convened for each FTO selection process, comprised of the personnel listed in policy, and included all the required testing mechanisms.
3. Determine if FTO Screening Panels were convened for each FTO selection process held and if they were comprised of the personnel listed in policy.
4. Determine if all selected FTOs completed the POST-Certified FTO Course and were certified by the Chief of Police to be an FTO.
5. Determine if the FTO Certification Course included all the required topics.
6. Determine if all recertification requirements were met prior to officers being recertified for the position of FTO.
7. Determine if the Department followed policy in their decertification process.

### Key Strength

All 52 officers selected for the position of FTO during the review period completed the required POST-Certified FTO Course and the Auditor confirmed the course included all topics listed in policy.

### Key Weaknesses

- While 51 of 52 FTO testing files included use of force numbers and all 52 files included the

number of “sustained” and “not sustained” complaints, none of the 52 FTO testing files included a documented assessment of whether the nominee had an “excessive number of use of force incidents for the two year period preceding nomination” or an “excessive number of complaint allegations for the two year period preceding nomination,” despite policy requiring that nominees not have an excessive number of force incidents or complaint allegations.

- BFO Deputy Chiefs completed a BFO Deputy Chief Review Report in 51 of the 52 FTO testing files but did not comment on the “sustained” findings, as required by policy, for 18 FTO nominees who had a sustained complaint finding. One FTO nominee had a “sustained” Class I complaint within the year preceding nomination and should have been ineligible for the FTO position and two others had a “sustained” Class I complaint within the two years preceding nomination, yet there were no comments by the BFO Deputy Chief evaluating their eligibility.
- The recertification process required by policy did not occur for three FTOs who were recertified in 2020 and 2021. However, all three recertified FTOs did attend a POST-Certified FTO Course within the three years prior to being recertified, as required by policy.

### Key Recommendations

The inspection resulted in seven recommendations which are set forth on pages 62-65.

## Executive Summary

On August 16, 2021, the Office of Inspector General (OIG) initiated a review of the Oakland Police Department's Field Training Officer selection, decertification, and training requirements outlined in Departmental General Order (DGO) B-08, *Field Training Program*. The purpose of OPD's Field Training Program is to help new police officers make the transition from what they learned in the police basic academy to performing general law enforcement uniformed patrol duties competently in the field. Upon completion of the academy, the trainee officers are assigned to the Patrol Division to complete the Field Training Program.<sup>24</sup> Field Training Officers (FTO), who train the trainee officers, are experienced senior officers who coach, mentor, train, teach, counsel, lead, and evaluate trainee officers for 16 weeks prior to the trainees being assigned to their own beat as a solo officer. The Field Training Unit (FTU) facilitates and oversees the program, including the recruitment, nomination, and testing of FTOs.

Field Training Officers teach trainee officers by demonstrating how to use the knowledge they received in the academy in practice on patrol. Since FTOs serve as role models for trainee officers, it is critical for the Department to carefully evaluate and select the most suitable officers to fill the FTO position. Therefore, department policy requires FTOs to possess a variety of skills and experience, including, but not limited to, leadership skills, a minimum of three years as a police officer, and a commitment to community policing.

This audit focused on the Department's four nomination and selection processes that occurred in 2020 and 2021, which resulted in the certification of 52 FTOs. The purpose of this audit was to determine if the Department complied with the FTO nomination and selection requirements outlined in DGO B-08, *Field Training Program*. Additionally, the audit included an assessment of the FTO decertification and recertification processes and the FTO training requirements. The audit resulted in twelve findings, four additional observations, and seven recommendations.

While the audit found that most of the information required by policy was captured in FTO nominees' testing files, the majority of files were missing a documented assessment of performance data. Department General Order B-08, *Field Training Program*, requires that FTO nominees not have an excessive number of use of force incidents or complaint allegations and that the Bureau of Field Operations (BFO) Deputy Chief comment on all "sustained" complaint findings. Excessive is defined in policy as not merely a number, but the totality of circumstances. The policy also requires that a Matrix Report be completed for each FTO nominee but does not specify what data should be included and does not include guidance on what type of documented assessment is required. While some FTO testing files included comments from commanders regarding some performance data, most files only included a completed checkbox indicating whether they approved the nomination, therefore not explicitly addressing whether the data was acceptable or concerning. There were no comments from the BFO Deputy Chiefs about "sustained" findings for 18 FTO nominees that had at least one "sustained" finding. Although the chain of command evaluating the FTO nominees may have been conducting thorough reviews of performance data, in most cases, their assessments of the data were not sufficiently

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<sup>24</sup> Departmental General Order (DGO) B-08, *Field Training Program*, effective date June 2, 2014. IV.A.1. Pg. 8.

documented. Additionally, the Audit found that policy does not require a review of an FTO nominee's PAS Monitoring or Intervention status<sup>25</sup>, even though this may be a helpful indicator when assessing suitability for the position of FTO.

The Audit also found that the FTO Oral Boards, the FTO Screening Panels, and the FTO recertification process were not being conducted in line with policy requirements.

- For the four FTO selection processes in 2020 and 2021, the FTO Oral Boards were comprised only of FTU personnel, rather than all personnel listed in policy. Additionally, the Oral Boards convened in 2020 and 2021 included field training-based scenario questions and a report writing exercise, but there were no assessment interviews conducted as required by policy.
- Although policy requires the BFO Deputy Chief to convene FTO Screening Panels to review and rank FTO nominees, there were no Screening Panels convened during the 2020 and 2021 FTO selection processes.
- The recertification process required by policy did not occur for the three FTOs who were recertified in 2020 and 2021. However, all three recertified FTOs did attend a POST-Certified FTO Course within the three years prior to being recertified, as required by policy.

The Audit found that all 52 FTOs selected in 2020 and 2021 received the required FTO training and all but one FTO certified prior to 2020 received the required FTO update training every three years.

Based on the findings, OIG recommends that the Department update its field training policy and FTO nomination forms to ensure the following.

- All FTO qualification requirements listed in policy are included on the appropriate nomination form.
- All performance data that would help the Department evaluate the suitability of FTO nominees are stated in policy and included on the appropriate nomination form.
- Each reviewer's responsibility for assessing performance data and evaluating suitability of FTO nominees are clearly stated in policy and on the nomination forms, including the BFO Deputy Chief requirement to comment on "sustained" complaint findings.
- All nomination forms include clear instructions on what data to assess, the time period of review, and how to document the assessment, including requiring a clear statement supporting or not supporting the nominee.

The OIG also recommends that the Department follow policy on the Oral Board composition and testing mechanisms, or update policy if adjustments to the Oral Board process are needed and reevaluate the necessity of the FTO Screening Panel.

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<sup>25</sup> Department General Order D-17, *Personnel Assessment System (PAS)*, defines PAS as a pro-active, non-disciplinary, early identification and intervention program designed to identify and positively influence conduct, correct performance-related problems and recognize exemplary performance. By establishing performance standards and providing the requirement for supervisors, commanders, and managers to review their subordinate's performance as it relates to these standards, the Department is better able to maintain supervisory and managerial accountability, ensure consistent high quality performance standards both vertically and laterally in the organization and ensure policy compliance throughout the Department.

Finally, the FTU should be retrained on the Field Training Program policy to ensure that they are complying with all requirements, including the recertification process.

During the audit, the Auditor provided feedback to the Field Training Unit, and they began making changes prior to the publication of this audit.

## Background

The Field Training Program plays a critical role in training and influencing new police officers after they complete their basic academy training. The 16-week program pairs police officer trainees with experienced police officers in the field so that trainees can get field experience with guidance and oversight before being released as solo officers. Field Training Officers serve as role models to the trainees and must therefore be thoroughly vetted before being selected to mentor and guide new police officers. Department General Order B-08, *Field Training Program*, outlines the minimum qualifications and selection process for becoming an FTO.

### Prior Review

In 2016, the OIG published a review of the Field Training Program, which focused the Program's efforts to assess the continued suitability of FTOs and the selection and certification documentation of active FTOs.<sup>26</sup> There were two recommendations.

#### **Recommendation #1**

Currently, only complaint cases are required to be notified to the FTO Coordinator. However, the FTO Coordinator performs a more comprehensive review for each active FTO, beyond the minimal requirements, including but not limited to, vehicle pursuits, collisions, and use of force incidents. Therefore, the OIG recommended that the Department formalize the Field Training Program's existing practice of reviewing a wide range of key performance indicators by amending the Department's current policy.

**Status:** The performance indicators were not formalized in policy as of the initiation of this audit.

#### **Recommendation #2**

The screening panel added limited value in the nomination process and its relevancy should be reevaluated. The Audit Team noted that convening screening panels presented scheduling problems and created unnecessary redundancy by requiring the BFO Deputy Chief and area commanders to review and endorse the nominee twice. Therefore, the OIG recommended that the Department reevaluates the necessity of convening a FTO screening panel.

**Status:** DGO B-08, *Field Training Program*, has not been updated since the OIG's review published January 2016. Therefore, policy still requires an FTO screening panel.

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<sup>26</sup> January 2016 Monthly Progress Report of the Office of Inspector General. <https://oaklandca.s3.us-west-1.amazonaws.com/government/o/OPD/a/publicreports/oak056601.pdf>

## **FTO Selection Process**

### **Field Training Unit**

The Oakland Police Department's (OPD) Field Training Unit (FTU) is responsible for administering the Field Training Program.<sup>27</sup> The Unit is required to be staffed, at minimum, by a full-time member designated as the Field Training Program Coordinator (FTPC).<sup>28</sup> As of the time of this audit, the Unit was staffed with a Sergeant of Police serving as the FTPC and two Senior Field Training Officers. The FTU is responsible for ensuring the Field Training Program meets POST<sup>29</sup> standards, providing program training, coordinating the FTO nomination and selection process, coordinating the FTO Certification Courses, evaluating teaching and training methods of the FTOs, monitoring trainee officer performance, maintaining FTO and trainee officer files, and evaluating program procedures.

### **Nomination and Selection of FTOs**

Per Department General Order B-08, *Field Training Program*, sergeants and commanders nominate qualified officers for the FTO position by completing an FTO Nomination/Recertification Questionnaire (TF-3259) and forwarding the questionnaire directly to the FTU.<sup>30</sup> Nominating sergeants and commanders complete the Questionnaire to establish the officer meets the qualifications listed in DGO B-08, *Field Training Program*, Part II, B-1-10:

1. Possess a POST Basic Certificate;
2. Have at least three (3) years of Departmental service and two (2) years of Patrol experience (unless waived by the Chief of Police);
3. Have received overall "Fully Effective" or better Performance Appraisals for the two (2) years preceding nomination;
4. Be committed to the Department's Mission, Vision, and Values;
5. Possess a high level of professionalism and ethical conduct;
6. Understand the importance of developing positive working relationships with the community;
7. Understand the importance of making quality citizen contacts;
8. Demonstrate a commitment to Community Policing;
9. Possess leadership abilities; and
10. Demonstrate sound working knowledge of Department policies/procedures, interpersonal/tactical communications, problem-solving/decision-making skills, laws of arrest/search/seizure, preliminary investigation skills, and report writing.<sup>31</sup>

Department General Order B-08, *Field Training Program*, Part II, 11-13 includes additional qualifications, including:

11. No excessive number of UOF incidents for 2 years preceding nomination;
12. No excessive number of complaint allegations or sustained findings for 2 years preceding nomination; and

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<sup>27</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. I. A. Pg.1.

<sup>28</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. I. A. Pg.1.

<sup>29</sup> POST is the California Commission on Peace Officer Standards and Training and sets minimum selection and training standards for California law enforcement.

<sup>30</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. C.1. a-b. Pg.4.

<sup>31</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. B. 1-10. Pg.2-3.

13. No sustained Class I offenses for 1 year preceding nomination (shall evaluate sustained Class I offences for 2 years preceding nomination).<sup>32 33</sup>

Officers with open IAD complaints may participate in the FTO nomination and testing process; however, the BFO Deputy Chief must re-evaluate the status of any officer who receives a sustained finding.<sup>34</sup>

Once the FTU receives the FTO Nomination/Recertification Questionnaires from nominating sergeants or commanders, the FTU prepares a FTO testing file for each nominated officer, which includes the following documents:

1. An FTO Nomination/Recertification Matrix Report (TF-3249);
2. All Use of Force Reports for a period of 30 months preceding the nomination;
3. An Area Command Review Report (TF-3314); and
4. A BFO Deputy Chief Review Report (TF-3315).

The Area Commanders (lieutenants and captains) of each nominated officer review the nominated officer's testing files, complete an Area Command Review Report, and forward the file through the chain-of-command to the BFO Deputy Chief.<sup>35</sup> Upon receipt of the testing files, the BFO Deputy Chief:

- a. Reviews the Area Command Review Reports and endorsements provided by commanders;
- b. Reviews and comments on all sustained IAD findings in the two (2) year period preceding nomination and makes a written recommendation of the officer's eligibility to the Chief of Police.
- c. Completes the BFO Deputy Chief Review Report and endorses the nomination;
- d. Selects nominated officers to attend the FTO Oral Board testing phase; and
- e. Returns the testing files to the FTU for further processing.<sup>36</sup>

The FTU notifies FTO nominees whether they were selected to attend the FTO Oral Board. The Oral Board exam includes an oral interview, field training-based scenario questions, and a written exercise. The BFO Deputy Chief convenes an FTO Oral Board comprised of the following personnel to determine whether the nominees pass or fail the test.

- a. BFO Deputy Chief (Chairperson);
- b. The FTPC;
- c. The Training Section Commander;
- d. A Lieutenant of Police who has worked in the Patrol Division as a commander; and

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<sup>32</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. B.11-13. Pg. 3.

<sup>33</sup> California Government Code Section 7286 b (18) requires law enforcement agencies, no later than January 1, 2021, to maintain a policy that provides a minimum standard on the use of force, including "Procedures to prohibit an officer from training other officers for a period of at least three years from the date that an abuse of force complaint against the officer is substantiated." This requirement applies to field training officers, who are responsible for training other officers, and has not been incorporated into the Department's Field Training Policy.

<sup>34</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. B.14. Pg. 3.

<sup>35</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. C.3 a-c. Pg. 4.

<sup>36</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. C.4a-f. Pg. 4-5.

- e. A Sergeant of Police who has worked in the Patrol Division as a supervisor.<sup>37</sup>

The BFO Deputy Chief convenes an FTO Screening Panel comprised of the following personnel for nominees that pass the Oral Board:

- a. BFO Deputy Chief (Panel Chairperson);
- b. All Area Commanders;
- c. Office of Inspector General Commander;
- d. Internal Affairs Division Commander;
- e. Use of Force Subject Matter Expert; and
- f. FTPC.<sup>38</sup>

The FTO Screening Panel collectively reviews all officers who have successfully completed the FTO testing process, ranks the officers, and establishes an FTO Eligibility List, which is then presented to the Chief of Police for certification and remains in effect for a period not to exceed 18 months.

### **Certification and Training of FTOs**

Once the FTO Eligibility List is created, the Chief of Police (when needed) selects officers from the FTO Eligibility List to attend the POST-Certified FTO Course.<sup>39</sup> The Certification Course consists of the following course topics, at minimum:

1. Professionalism, ethics, and leadership;
2. Expectations, functions, and roles of the FTO;
3. Competency, evaluation, and documentation;
4. Teaching and training skills development; and
5. Legal and liability issues for FTOs.<sup>40</sup>

To ensure the Field Training Program meets the standards established by POST and adheres to all Departmental Field Training Program standards,<sup>41</sup> FTOs are required to attend a POST-Certified FTO Update Course at least once every three (3) years to maintain certification.<sup>42</sup>

### **Recertification of FTOs**

According to Department General Order B-08, *Field Training Program*, FTO recertification may occur under the following conditions:

1. The officer who was certified as an FTO within the past 5 years can become an FTO *without going through the testing process* (i.e., the oral interview, the field training-based scenario questions, and the written exercise, are not required for recertified FTOs who have previously been trained as FTOs under the new program's standards) *again*;
2. The officer must be assigned to Patrol or Foot Patrol;

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<sup>37</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. D. 1-e. Pg.5.

<sup>38</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III.A.1.a-f. Pg.6.

<sup>39</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III. B. 1-2. Pg.7.

<sup>40</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III.C. 1-5. Pg.7.

<sup>41</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. I. B. Pg. 1.

<sup>42</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III.D.4. Pg.8.

3. The officer's Patrol sergeant shall verify the officer meets the qualifications listed in Part II, B, 1-10 and must complete an FTO Recertification Questionnaire and forward the form to the FTU;
4. The FTU locates the officer's Field Training File, completes the FTO Recertification Matrix Report, obtains all Use of Force reports for a period of 30 months preceding the recertification request, and forwards the Field Training File through chain-of-command;
5. The Commander completes an Area Command Review Report;
6. The BFO DC completes a BFO Deputy Chief Review Report;
7. The Chief of Police makes a determination to recertify; and
8. The FTU notifies all parties of the Chief's decision.<sup>43</sup>

In addition, an officer must have attended a POST FTO Course or POST FTO Update Course within the past three (3) years prior to being recertified. Any officers not recertified may schedule a meeting with the BFO Deputy Chief.<sup>44</sup>

### **Decertification of FTOs**

According to Department General Order B-08, *Field Training Program*, decertification of an FTO shall occur under the following conditions:

1. An FTO is promoted to a rank higher than Police Officer;
2. An FTO is physically transferred to a position other than a Patrol Officer, Foot Patrol Officer or an Officer in specific field-based unit position, as designated by the Chief of Police, authorized to serve as an FTO;
3. An FTO is assigned on a voluntary loan that exceeds 90 days;
4. An FTO is placed on an administrative transfer due to illness or injury that exceeds 90 days from the date of transfer;
5. An FTO requests decertification by preparing and forwarding a memorandum through his/her chain-of-command to the Chief of Police and obtains the endorsement of the Chief of Police;
6. An FTO fails to receive an "Overall" fully effective performance appraisal;
7. An FTO is placed on a Performance Deficiency Notice (PDN); and
8. An FTO is the subject of any of the following Class I complaints where the presumptive finding<sup>45</sup> is determined to be sustained:
  - a. Excessive force;
  - b. Unlawful arrest;
  - c. False testimony;
  - d. Racial, ethnic, sexual orientation or gender-based discrimination or slurs; or
  - e. Other serious examples of police misconduct.<sup>46</sup>

The BFO Deputy Chief shall notify the FTU of the decision and forward all documentation to the FTU.<sup>47</sup>

FTO decertification may occur under the following conditions:

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<sup>43</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. A-E. Pg.19-20.

<sup>44</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. E. 2-3. Pg. 20.

<sup>45</sup> Per DGO B-08, "a presumptive finding is when the preponderance of the current facts of the case would indicate a sustained finding is forthcoming."

<sup>46</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. VIII. A.1-8 a-e.Pg.17-18.

<sup>47</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. VIII. A. 10. Pg.18.

1. The FTO fails to maintain an acceptable level of conduct as determined by a “sustained” finding by the IAD or CPRB; or receives multiple complaints that demonstrate a pattern of disregard for policy or procedures.
2. The FTU shall prepare a memorandum recommending decertification or retention of an FTO whenever a “sustained” IAD finding has been received or a pattern of disregard for policy or procedures appears to have developed. The memorandum shall be forwarded through the chain-of-command to the Chief of Police.
3. When the reduction in field training requires fewer FTOs. Decertification shall occur based on program needs.

Any member decertified for substandard performance or behavior may request a meeting with the BFO Deputy Chief.<sup>48</sup>

## Scope/Population and Methodology

The scope of this audit consisted of a review of Field Training Officer (FTO) selection, certification, and training Requirements, during the calendar year of 2020 and 2021, to assess the completeness of the FTO testing files and if all FTO nomination qualifications, certification, decertification, recertification, and training requirements were met. The Auditor reviewed the FTO testing files to verify they included:

- A completed FTO Nomination/Recertification Questionnaire to establish the FTO met the qualifications outlined in policy
- All required supporting documentation
- A completed Area Command Review Report
- A completed BFO Deputy Chief Review Report, to include comments on all sustained complaints in the two years preceding nomination
- Evidence of an FTO Oral Board examination and Screening Panel
- Attendance at an FTO Certification Course
- Evidence of certification by the Chief of Police

The Auditor also reviewed the Vision files for all FTOs certified in 2020 and 2021 to confirm performance data when necessary.

The Auditor reviewed the FTO testing files of those FTOs decertified in 2020 and 2021 to ensure a memorandum of decertification was present in their files, the memorandums provided the dates and reasons for decertification, and the decertification dates matched the decertification date recorded on the FTU spreadsheet.

Finally, the Auditor reviewed the FTO training files and Vision records for the active FTOs that were certified prior to 2020 to ensure they attended a POST-Certified FTO Update Course at least once every three (3) years to maintain certification and did not receive any Class I sustained complaints while they were an active FTO.

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<sup>48</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. VIII. B.2-3. Pg.18.

### **Audit Population**

The Auditor requested and obtained, via the Field Training Unit, a list and spreadsheet of all field training officers (FTOs) in the Field Training Unit including, their FTO certification date, serial numbers, and current FTO status (i.e., active, recertified, decertified), during the entire year of 2020 and 2021.

During 2020 and 2021, the FTU held four FTO Nomination/Selection processes resulting in the selection of 52 FTOs (See Table 1).

**Table 1: FTO selection processes held in 2020-2021**

#	FTO Nomination/Selection processes held in 2020 and 2021	Number of FTOs Selected
1	February 7, 2020	19
2	December 17, 2020	12
3	January 14, 2021	9
4	February 19, 2021	12
	<b>Total</b>	<b>52</b>

There were three FTOs who were recertified and 40 FTOs who were decertified in 2020 and 2021. Finally, there were 23 active FTOs who were certified prior to 2020.

The Auditor reviewed the files for the 52 FTOs selected in 2020 and 2021 (14 of which were decertified during the review period) and the 26 decertified FTOs who was certified prior to 2020. In addition, the Auditor reviewed the training records and complaint records in the Vision system for the 23 active FTOs who were certified prior to 2020. The Auditor was unable to review files for the three recertified FTOs since the files did not exist. **See Appendix A** for the detailed methodology.

### **References**

- Departmental General Order B-08, *Field Training Program*, effective date June 2, 2014.
- Departmental General Order M-03, *Complaints Against Departmental Personnel*, effective date December 22, 2017.
- Department General Order D-17, *Personnel Assessment System (PAS)*, effective date November 20, 2013.

## Findings

### FINDING #1

Upon review of FTO nominations during 2020 and 2021, the Auditor found that nominating sergeants and commanders forwarded the FTO Nomination Questionnaires for all 52 selected FTOs directly to the Field Training Unit (FTU) as required by policy. However, two of the ten qualification requirements listed in DGO B-08, *Field Training Program*, Part II B, 1-10, were not included on the Questionnaire. Therefore, the number of years in patrol (Qualification #2) was not documented in any of the FTO testing files, resulting in the selection of one FTO who did not have the required two years of patrol experience. Additionally, although the Questionnaire did not include a section on the quality of citizen contacts (Qualification #7), all but one Questionnaire addressed the qualification in another section.

According to Departmental General Order B-08, *Field Training Program*, sergeants or commanders shall be responsible for nominating officers for the position of FTO in the following manner:

- Complete an FTO Nomination/Recertification Questionnaire (TF-3259) to establish the officer meets the qualifications listed in Part II, B,1-10; and
- Forward the questionnaire directly to the FTU.<sup>49</sup>

To determine if the FTO Nomination Questionnaires (TF-3259) were completed properly and forwarded to the FTU, the Auditor requested and obtained, via the Field Training Unit, a list of all FTO nomination processes and the FTO testing files for each officer selected during the 2020 and 2021 calendar years. There were four FTO selection processes held, and 52 officers selected for the position of FTO during 2020 and 2021. This included 31 officers selected in 2020 and 21 officers selected in 2021. All but one FTO Nomination Questionnaires were completed by a sergeant, even though policy allows for a sergeant or commander to nominate an officer for FTO. The Auditor reviewed the following 10 qualification data fields in the 52 FTO Nomination Questionnaires (TF-3259) to ensure that all 10 qualification data fields were completed by the sergeants.

1. Possess a Post Basic Certificate
2. At least 3 years of service and 2 years of patrol experience, unless waived by Chief of Police
3. Fully Effective Ratings or better for 2 years preceding nomination
4. Committed to Department's Mission, Vision and Values
5. Possess high level of professionalism and ethical conduct
6. Understand importance of developing positive working relationships with the community
7. Understand the importance of making quality citizen contacts
8. Demonstrate a commitment to Community Policing (Procedural Justice)
9. Possess leadership abilities
10. Demonstrate sound working knowledge of Departmental policies/procedures, interpersonal/tactical communications, problem-solving/decision-making skills, laws of arrest/search/seizure, preliminary investigation skills, and report writing<sup>50</sup>

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<sup>49</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. C. 1a-b. Pg. 4.

<sup>50</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. B. 1-10. Pg. 2-3.

The Auditor found that all 52 FTO Nomination Questionnaires were forwarded directly to the Field Training Unit (FTU) as required by policy. However, two of the ten qualification requirements listed in DGO B-08, *Field Training Program*, Part II B, 1-10, were not included on the Questionnaire.

The 2020 and 2021 FTO Nomination Questionnaires did not have a specific section about the FTO nominees' years of service and years of patrol experience (Qualification #2). Policy requires that FTO nominees have at least three years of service and two years of patrol experience, unless waived by the Chief of Police. The Questionnaire did have a field for the nominee's date of graduation, allowing reviewers to calculate years of service. However, the years of patrol experience was not captured on the Questionnaire and was not found anywhere else in the testing files. In one nominee's testing file, the date of graduation field was blank on both the Questionnaire and the Nomination Matrix Report, therefore not included in the file.

The Auditor reviewed the nominees' assignment history in the Vision system<sup>51</sup> to confirm the FTO nominees met the years of service and years of patrol experience requirements and found that all nominees had at least three years of service and all but one nominee had two years of patrol experience. There was one nominee that had only one year and eight months of patrol experience. The Auditor noted that there was no documentation by the Chief specifically waiving the qualification. The nominee was decertified four months after being certified and was never assigned any trainees.

The 2020 and 2021 Questionnaires were also missing a section specifically addressing the quality of citizen contacts (Qualification #7). However, all but one of the 52 Questionnaires addressed the quality of citizen contacts in the section on demonstrating commitment to community policing/procedural justice. The sergeant who did not address quality of citizen contacts may have missed it because the Questionnaire didn't include a section specifically for quality of citizen contacts.

The same Questionnaire that did not address the quality of citizen contacts also left one section blank, which addressed knowledge of departmental policies and procedures, interpersonal and tactical communications, problem-solving and decision-making skills, laws of arrest and search/seizure, preliminary investigation skills, and report writing. In a meeting on November 18, 2021, with the Field Training Unit, the OIG inquired about the sergeant who did not address two of the qualification requirements on the FTO Nomination Questionnaire. The FTU Coordinator stated, "the nominating sergeant would have knowledge of the officer's abilities in this field since it is also a part of the officer's Annual Performance Appraisal Rating. Therefore, if sergeants do not complete all the requirements listed in DGO B-08, *Field Training Program*, Part II B, 1-10, but they still support the FTO Officer's nomination, and the officer demonstrates these qualifications by passing the FTO Oral Board, the FTU is okay with the assessment." The FTU also informed the OIG that it will revise the FTO Nomination Questionnaire to include a separate question for the qualification regarding the importance of quality citizen contacts.

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<sup>51</sup> Vision is an electronic database that stores employee records such as assignments, training, uses of force, pursuits, etc.

Both of the qualification requirements missing from the 2020 and 2021 FTO Nomination Questionnaires were included on a previous version of the form (TF 3259, dated February 2009), which is currently available in PowerDMS.<sup>52</sup>

With the exception of the nominees' years of service and years of patrol experience, which was missing for all 52 nominees, 51 of the 52 FTO Nomination Questionnaires were properly completed, establishing that the FTO nominees met the qualifications listed in policy (DGO B-08, *Field Training Program*, Part II B, 1-10).

To ensure the FTO selection process maintains a high standard of review and continues to comply with policy, the OIG recommends the Department revise the FTO Nomination Questionnaire (TF-3259) to include a separate section addressing the FTO nominees' years of service and years of patrol experience and the importance of making quality citizen contacts. The FTU should also review all Questionnaires to ensure they are properly completed before forwarding to the Chief of Police, and if any qualifications are not met, the FTU should ensure that the Chief of Police documents that the qualifications are waived.

#### **FINDING #2**

**Upon review of the 52 FTO testing files for each FTO nominee in 2020 and 2021, the Auditor found that all supporting documents, except the officer's 30 months of Use of Force Reports, were placed in the FTO nominee's testing file. Furthermore, policy requires that FTO nominees not have an excessive number of force incidents for the two years preceding nomination and the FTO Nomination Matrices reviewed only included use of force numbers for a two-year period, which does not align with the requirement to include use of reports for 30 months in the testing files.**

According to Departmental General Order B-08, *Field Training Program*, when nominating an officer for the FTO position, the Field Training Unit (FTU) shall prepare, obtain, and place the following supporting documents in the FTO nominee's testing file and forward through the officer's chain-of-command to the BFO Deputy Chief for review and endorsement.

- a. FTO Nomination Matrix Report (TF-3249) – includes data on performance appraisals, attendance, traffic collisions, complaints, report writing, uses of force, arrests, citations, and letters of appreciation
- b. All Use of Force Reports for 30 months preceding the nomination
- c. Area Command Review Report (TF-3314)
- d. BFO Deputy Chief Review Report (TF-3315)<sup>53</sup>

The Auditor reviewed the 52 FTO testing files for each officer nominated in 2020 and 2021 to determine if the FTO testing files for each nominee included all supporting documents. Upon review of the 52 FTO testing files, the Auditor found that all supporting documents were placed in the FTO nominee's testing file, except the officers' 30 months of Use of Force Reports. The Auditor also reviewed the FTO

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<sup>52</sup> PowerDMS is the Department's policy management system.

<sup>53</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II.C.2.a-f.Pg. 4.

Nomination Matrix Reports for each nominee, which includes the number of uses of force, and found that the data collection period on the Matrix Reports covered 24 months. Therefore, not only were the testing files missing 30 months' worth of use of force reports, the use of force totals listed on the Matrix Report only covered 24 months.

Department General Order B-08, *Field Training Program*, was published in 2014, prior to the Department's implementation of PRIME (precursor to Vision).<sup>54</sup> Since the implementation of PRIME/Vision, all use of force reports have been electronic and available to supervisors and commanders in Vision, negating the need to print paper copies of use of force reports and include them in the FTO testing files. The Command Review Report requires lieutenants and captains to confirm that they reviewed the nominee's PRIME (Vision) history and the officers' use of force reports. The BFO Deputy Chief Review Report requires the BFO Deputy Chief to document that they reviewed the nominees PRIME (Vision) history and use of force history. Therefore, the need to place use of force reports in the testing files is outdated, since they can be accessed in Vision.

While not necessary to include paper copies of use of force reports in FTO testing files, a review of nominees' use of force reports is necessary to assess the qualification requirement that FTO nominees not have an excessive number of use of force incidents for two years (24 months) preceding nomination. Since excessive is defined by the totality of circumstances, including officer's assignment, type of force, nature of incident and duration between incidents, it would not be adequate to just review the total number of uses of force for each nominee. Policy requires that 30 months' worth of use of force reports be included in the testing files, but only requires a review of 24 months of use of force incidents to determine if there is an "excessive" number.

In systems preceding Vision, the default review period for data was 30 months, which may be why DGO B-08 calls for obtaining 30 months' worth of use of force reports. However, this time-period does not align with the qualification regarding excessive numbers of use of force incidents, which only applies to the preceding 24 months. The FTO Nomination Matrix doesn't specify a data collection period, rather it allows the sergeant to select a time-period. This lack of guidance on the time-period of review could lead to inconsistencies in the review period. Therefore, the OIG recommends that the Department should assess the most appropriate time-period for the use of force review and make it consistent throughout policy. Additionally, the Department should clarify who is responsible for reviewing the use of force reports and how and where such review should be documented. Finally, the Department should determine the necessity of including paper copies of Vision use of force reports in testing files and update policy to reflect the use of Vision.

### **FINDING #3**

**Upon review of the 52 FTO Nomination Matrix Reports, the Auditor found that not all data fields were completed; no Matrix Reports included comments, even though there is a comments field on the**

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<sup>54</sup> The Auditor noted that PRIME was the predecessor to VISION.

**report; and the Matrix does not include a field for Sustained Class I complaints.<sup>55</sup> Furthermore, policy does not specify what data should be included on the Matrix Report, nor does it include instructions for completing the Report.**

Departmental General Order B-08, *Field Training Program*, requires the FTU to prepare the FTO Nomination/Recertification Matrix Report (See Appendix B).<sup>56</sup> However, in practice, the Matrix is being completed by the nominating sergeants. In 51 of the 52 FTO testing files reviewed, the Matrix was completed by a nominating sergeant. In one testing file, the Matrix was completed by a manager, who was the nominee's direct supervisor at the time of nomination.

To determine if the FTO Nomination Matrix Reports were completed properly, the Auditor reviewed the following data fields in the 52 FTO Nomination Matrix Reports to ensure that each data field category was completed.

- Performance appraisals
- Attendance
- Traffic collisions
- Complaints
- Report writing
- Uses of force
- Arrests
- Citations
- Letters of appreciation

In addition, the Auditor reviewed the comments section to determine if the nominating sergeants or commanders made any comments about the data (e.g., concerns, trends or patterns).

Of the 52 FTO Nomination Matrix Reports reviewed, the Auditor found that not all data fields were completed, and no reports included comments indicating whether the counts were acceptable or concerning. The incomplete data fields are listed in Table 2.

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<sup>55</sup> Departmental General Order M-03, *Complaints Against Departmental Personnel*, effective date December 22, 2017, categorizes Complaints Against Departmental Personnel as Class I or Class II offenses. Class I offenses are the most serious allegations of misconduct (i.e., excessive force, unlawful arrest, false testimony, racial, ethnic, sexual orientation or gender based on discrimination or slurs, and other serious examples of police misconduct) and, if sustained, shall result in disciplinary action up to and including dismissal and may serve as the basis for criminal prosecution. Class II offenses include all minor misconduct offenses. Part II. E. 1-2. Pg. 4-5.

<sup>56</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II.C.2.b. Pg. 4.

**Table 2: FTO Nomination Matrix Reports with Incomplete Data Fields**

Data Field	Number of Matrix Reports with Incomplete Data Fields	Is Data an FTO Qualification?
Performance Appraisals	3	Yes
Use of Force	1	Yes
Letters of Appreciation	2	No
Arrests	8	No
Citations	31	No

Three of the 52 (6%) Matrix Reports were missing the FTO nominees’ performance appraisal data, which is used to confirm the nominees’ current work performance (i.e., exceeded expectations, fully effective, improvement needed, or unacceptable). However, for the three nominees with missing performance appraisal data on their Matrices, their sergeants did indicate on the associated Nomination Questionnaire that the nominee had received a “fully effective” or better on the last two performance appraisals.

One of the 52 Matrix Reports was missing use of force data and two were missing letter of appreciation data. Eight reports were missing arrest data, six of which stated N/A in the arrest data field and two were left blank. One of the reports with a blank arrest data field included a note that the arrest data was not in Vision. Thirty-one reports were missing citation data. In the reports missing citation data, 16 stated “unknown,” or had a question mark, 9 stated “N/A,” 1 stated “not listed in Vision,” 1 stated “lots,” and 4 were left completely blank. While assessing nominees’ use of force incidents is required by policy, letters of appreciation, arrests and citations are not specific nomination qualifications.

The Matrix Reports reviewed only listed numbers for each data category, with no associated documentation on whether the numbers were acceptable or concerning. Because the reports were completed and forwarded to the FTU, the presumption is that the numbers were acceptable. However, the total number of nominees’ uses of force, for example, ranged from 0 to 31 for a two-year period. This is a broad range, and with no comments by the sergeant regarding the totals, subsequent reviewers in the chain of command must do their own research to identify any concerning trends or patterns and are missing the sergeant’s perspective on the data.

While the Matrix Report includes fields for the number of “not sustained”<sup>57</sup> Class I complaints, “not sustained” Class II complaints, “sustained” Class II complaints, and open IAD investigations, it does not

<sup>57</sup> Per IAD 21-01, *IAD General Operating Procedures*, effective August 17, 2021, a finding of “not sustained” means the investigation did not disclose a preponderance of evidence to determine whether the alleged conduct occurred.

include a field for “sustained” Class I complaints. Per DGO B-08, FTO nominees are presumed ineligible to serve as a FTO for 12 months following a sustained Class I offense and such cases shall be considered important in evaluating eligibility for two years following the completion of the investigation.<sup>58</sup> The Auditor reviewed Vision for the 52 nominees to confirm the number of “sustained” and “not sustained” complaints and found three FTOs had a “sustained” Class I complaint within the two years prior to nomination, but none of the Class I complaints were listed accurately on the Matrix.

In one case, the FTO had a “sustained” Class I complaint finding within 12 months prior to nomination, which would have made the nominee ineligible to become an FTO according to policy. It appears the case was listed incorrectly on the Matrix Report because the nominee only had one sustained complaint (based on a review of Vision data) in the two years preceding nomination and the Matrix Report had one complaint listed in the field for “sustained” Class II complaints. There were no comments on the Matrix providing clarification. The reviewing lieutenant supported the nomination and made a comment that the nominee is a fantastic officer and would be a great FTO but noted that he was on supervisory monitoring. The lieutenant also commented that efforts were being made to remove the nominee from monitoring. The reviewing captain did not endorse the FTO nominee, commenting that the officer remains in monitoring and the nomination could be re-visited once monitoring was complete. The BFO Deputy Chief supported the nominee and did not comment on the sustained Class I finding. The FTO was ultimately certified by the Chief of Police. While the nominee’s Class I complaint was sustained four months prior to nomination, they were not assigned any trainees until 18 months after their sustained finding.

The other two FTOs had a “sustained” Class I complaint within two years preceding nomination, so were not presumptively ineligible, but the “sustained” Class I complaints should have been documented and considered. Neither Matrix Report included the “sustained” Class I complaints and there were no comments by any reviewers about the complaints. Because these Matrix Reports did not include comments and there was no field for “sustained” Class I complaints, there was no record in the FTO testing file that the “sustained” Class I complaints were considered, as required by policy. For one of these FTO nominees, the BFO Deputy Chief did not affirmatively endorse the nominee because the endorsement check box was left blank. The Deputy Chief did not make any comments about the “sustained” Class I complaint or whether they supported the nominee.

One of these two FTO nominees received their Class I sustained complaint finding approximately 16 months prior to nomination but was not assigned a trainee until more than two years after their sustained finding. The other FTO nominee with a Class I sustained complaint finding has never been assigned a trainee. The Auditor did note for both nominees the date the Class I complaint was sustained was within the two years preceding nomination, but the date of complaint was outside of the two years preceding nomination, which may have led to some confusion about the time-period of review.

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<sup>58</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. B.13. Pg. 13.

Department General Order B-08, *Field Training Program*, does not specify what data should be included on the FTO Nomination Matrix Report, nor does it include instructions for completing the report. In OIG's 2016 Review of the Field Training Program, the Auditors found that the FTO Coordinator, on a monthly basis, was reviewing key performance indicators including, but not limited to, vehicle pursuits and collisions, use of force incidents, officer involved shootings and unintentional firearm discharges. The current FTO Nomination Matrix includes most of these indicators but is missing vehicle pursuits which may be a helpful performance indicator in evaluating the suitability of officers for the FTO position. Although commanders and BFO Deputy Chiefs are documenting that they reviewed nominees' PRIME (Vision) history, which includes more performance indicators than are listed on the Matrix Report, the data included on the Matrix Report suggests that these are the indicators most important for review to determine suitability for becoming an FTO.

Without guidance in policy about what data should be included on the Matrix Report, anytime the report gets updated, the Department risks not capturing data categories that provide helpful insight into an FTO nominee's performance. In fact, the Audit found that a data category critical to assessing eligibility to be an FTO ("sustained" Class I complaints) was missing from the Matrix. Additionally, without instructions on completing the Matrix Report, the nominating sergeant or commander does not have guidance on how to assess the data and document their assessment. Documenting the assessment of data provides the rest of the reviewers in the chain of command with the nominating sergeant's or commander's perspective on trends, patterns or concerns with the data. Therefore, the OIG recommends the Department update policy to include which data should be collected and assessed and what documentation is required. The Matrix Report should reflect the data listed in policy and include the documentation requirements. In addition, the Department should determine who should be responsible for completing the Matrix and update policy to reflect those changes.

#### **Additional Observation**

**The employee profile reports in Vision that summarize performance data do not include the date of complaint finding, which is important in determining if an FTO has had received a "sustained" complaint finding in the two years preceding nomination.**

When confirming complaint data in Vision for the FTO nominees, the Auditor reviewed the employee profile reports which is where supervisors and commanders can find data on numerous performance indicators, including complaints, use of force, pursuits, assignment history, training, etc. In the sections on complaint history and discipline history, the only dates included are the date of complaint and the date of discipline. However, when assessing whether an FTO nominee had a "sustained" finding in the two years preceding nomination, the date of the sustained finding is needed, which is the same as the Chief of Police approval date. The missing date of sustained finding may make it difficult for supervisors and commanders to determine if a "sustained complaint" falls within the required review period. The OIG recommends the Department add the sustained finding date (complaint approval date) to the employee profile report so that supervisors and commanders can easily find the date of the "sustained" finding.

#### **FINDING #4**

**While 51 of 52 FTO testing files included use of force numbers and all 52 files included the number of “sustained” and “not sustained” complaints, none of the 52 FTO testing files included a documented assessment of whether the nominee had an “excessive number of use of force incidents for the two year period preceding nomination” or an “excessive number of complaint allegations for the two year period preceding nomination,” despite policy requiring that nominees not have an excessive number of force incidents or complaint allegations.**

According to Departmental General Order B-08, *Field Training Program*, Commanders of each nominated officer shall review the nominated officer’s testing files, complete an Area Command Review Report, and forward through the chain-of-command to the BFO Deputy Chief.<sup>59</sup> The Area Command Review Report requires lieutenants and captains to confirm they reviewed the following, using checkboxes.

- Reviewed the officer’s Field Training Nomination Folder
- Reviewed the officer’s Use of Force reports
- Reviewed the officer’s Supervisory Notes File
- Reviewed the officer’s PRIME<sup>60</sup> history
- Reviewed the officer’s Complaint history

The FTO Nomination Questionnaire covers the qualification requirements listed in DGO B-08, *Field Training Program*, Part B. II. 1-10. However, there are no FTO nomination forms that specifically cover qualifications listed in Part B. II. 11-12, which state:

1. Not have an excessive number of force incidents for the two (2) year period preceding the nomination. “Excessive” shall not merely be defined by a number but rather by the totality of circumstances that led to the use of force, to minimally include:
  - a. Officer’s assignment;
  - b. Type of force used;
  - c. Nature of the incident; and
  - d. Duration between incidents.
  
2. Not have an excessive number of complaint allegations or “sustained” IAD findings for the two (2) year period preceding nomination. “Excessive” shall not merely be defined by a number but rather by the following:
  - a. Officer’s assignment;
  - b. Type of complaints received;
  - c. Frequency of complaints; and
  - d. Circumstances surrounding the complaint(s).

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<sup>59</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. C.3 a-c. Pg. 4.

<sup>60</sup> The Auditor noted that PRIME was the predecessor to VISION.

The Auditor reviewed the Area Command Review Reports in all 52 FTO testing files to determine if the commanders reviewed, completed, and forwarded all FTO reports through the chain-of-command to the BFO Deputy Chief. The Auditor found completed Area Command Review Reports by the lieutenants and captains in 51 files. There was one FTO testing file that included two blank Area Command Review Reports from the lieutenant and the captain and was missing the BFO Deputy Chief Report. The file did include a completed FTO Nomination Questionnaire and Matrix Report. In a meeting with the Field Training Unit on November 18, 2021, the OIG asked, "In the February 7, 2020 FTO Nomination, there was one officer whose file was not reviewed and forwarded through the chain-of-command to the BFO DC, however, this officer still made it through the FTO nomination and selection and became an FTO. How was the officer nominated and selected to attend the FTO Oral Board testing phase without the chain-of-command review and the endorsement by the BFO Deputy Chief?"

The Field Training Unit responded, "Due to this officer having a non-field assignment during the time of his FTO nomination, he did not have a lieutenant, captain, or BFO deputy chief in his chain of command. Therefore, after his nomination questionnaire was completed by his direct supervisor, he went through the rest of the FTO testing process and was certified by the Chief of Police." The nominee was assigned to OIG at the time of nomination but was planning to transfer back to Patrol. The chain of command included the nominee's Manager and the Chief of Police, since OIG was a direct report to the Chief of Police at the time. Although there was no lieutenant, captain or deputy chief review, the nominee was ultimately selected after the oral board and review by the Chief of Police.

Although all 52 testing files included a Matrix Report, as stated in finding #3, the Matrix Report in one FTO testing file was missing use of force numbers. This was not the same nominee as discussed above, who was missing the Area Command Review Reports. Therefore, 50 of the 52 testing files had both use of force numbers documented in the Matrix and completed Area Command Review Reports.

In seven of the 50 FTO testing files with completed Area Command Review Reports and use of force numbers, there were six lieutenants and six captains who did not document they reviewed the nominee's use of force reports. In five of the seven testing files, both the lieutenant and captain did not document they reviewed the nominee's use of force reports. In the remaining two testing files, either the lieutenant or the captain documented their review, but not both. All six lieutenants included a comment that the use of force review was not required per the FTU Sergeant, and one captain included a comment that he could not review use of force reports due to Vision access issues. The Auditor noted that the other five captains did not comment about why the use of force reports were not reviewed. The Auditor reviewed the Matrix Reports to identify the number of use of force incidents for these seven nominees and found that in the two years preceding nomination, these seven nominees had between one and five uses of force.

For the remaining 43 FTO testing files, there was only one file that included comments by the lieutenant and captain regarding the nominees' use of force. The lieutenant stated, "The officer was involved in a level 1 UOF. If found out of compliance will revisit questionnaire and suitability of FTO." The reviewing captain added, "The officer is subject to recent level 1 that is pending but do not have concerns supporting this FTO." The Auditor noted that this nominee had a total of 12 uses of force (one Level 1,

two Level 3 and nine Level 4).<sup>61</sup> Although the commanders commented on the Level 1 use of force, there was no assessment of the FTO nominee's other uses of force.

According to the Matrix Reports, one of the nominees had no uses of force during the two years preceding nomination and 50 nominees had at least one use of force. There was one Matrix Report that was missing use of force numbers.<sup>62</sup> The ranges for the total number of uses of force in the two-year period preceding nomination for the 50 nominees are as follows:

- 21 nominees had between 1 to 4 uses of force
- 15 nominees had between 5 to 9 uses of force
- 8 nominees had between 10 to 19 uses of force
- 6 nominees had between 21 to 31 uses of force

There was one FTO nominee that had a Level 1 use of force, eight nominees had one or more Level 2 uses of force and 14 nominees had one or more Level 3 uses of force. In addition, all but three FTO nominees had one or more level 4 uses of force. None of the FTO nominees had a "sustained" complaint finding for use of force.

Despite 29 nominees having five or more uses of force, none of the FTO testing files included a documented assessment of the officer's assignment, the type of force used, the nature of the incident, or the duration between incidents, which is required to determine if there was an excessive number of use of force incidents.

Twenty-four of the 52 nominees had a "sustained" and/or a "not sustained" complaint finding and eight of those had more than one "sustained" and/or "not sustained" complaint finding. Six of the 24 FTO testing files for nominees with "sustained" and "not sustained" complaints included comments by the reviewing lieutenant and/or captain about those complaints, two of which were for an FTO with more than one "sustained" and/or "not sustained" complaints. There were no comments about complaints in six of the eight testing files for FTOs with multiple sustained and/or "not sustained" complaints. Additionally, the comments made by commanders were about the type of complaint but did not specifically address whether the FTO nominee had an "excessive number of complaint allegations" by assessing the officer's assignment, frequency of complaints, and circumstances surrounding the complaints.

The Area Command Review Report does not require the lieutenants and captains to document their assessment of the number of uses of force and complaint allegations to determine whether they are excessive. It only requires that they complete an Area Command Review Report. Because there was no documented assessment of use of force incidents and complaint allegations, the Auditor could not

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<sup>61</sup> The Department categorizes force into levels indicating the seriousness of the force. Level 1 uses of force are the most serious (e.g., deadly force) and L4 uses of force are the least serious (e.g., pointing of a firearm).

<sup>62</sup> The Matrix Report in one FTO nominee's testing file was missing use of force numbers. However, according to Vision, in the 2 years preceding FTO nomination (February 19, 2021), the nominee had a total of eight Level 4 uses of force.

determine if the reviewing supervisors and commanders found any nominees to have an excessive number that would make them unsuitable to be an FTO. Per policy, determining what is an “excessive” number of use of force incidents or complaint allegations requires a look at the totality of circumstances. Additionally, although policy requires a review of the frequency of complaint allegations, it does not expressly mention a pattern in the nature of “sustained” and “not sustained” complaint allegations. A review of patterns in the nature of complaints would be helpful in determining suitability for the FTO position. In particular, a review of patterns of allegations, such as racial profiling, that may be more difficult to prove could potentially highlight areas of concern. The OIG recommends that the Department should add the required assessments of excessive use of force incidents and excessive numbers of complaint allegations to the Area Command Review Report, and update policy to include an assessment of patterns in the nature of complaints when determining if use of force incidents and complaint allegations are excessive.

#### **Additional Observation**

**The FTO Area Command Review Report is unclear regarding the need for comments when lieutenants and captains support the nominees.**

The Auditor identified three versions of the Area Command Review Report. One version, dated May 2010, was available in PowerDMS, but was not used in the 2020 and 2021 selection processes. There were two versions used in the 2020 and 2021 selection processes that were very similar, but one version included the following data field, which is a “Yes” or “No” check box.

- “I cited specific reasons to support or deny nominations/recertification requests.”

The Report is unclear regarding the need for comments when lieutenants and captains support the nominees. The OIG recommends that the Department revise DGO B-08, *Field Training Program*, to clarify that commanders must expressly state and explain their support of FTO nominees if no concerns are identified or their denial if concern are identified.

#### **FINDING #5**

**BFO Deputy Chiefs completed a BFO Deputy Chief Review Report in 51 of the 52 FTO testing files but did not comment on the “sustained” findings, as required by policy, for 18 FTO nominees who had a “sustained” complaint finding. One FTO nominee had a “sustained” Class I complaint within the year preceding nomination and should have been ineligible for the FTO position and two others had a “sustained” Class I complaint within the two years preceding nomination, yet there were no comments by the BFO Deputy Chief evaluating their eligibility.**

According to Departmental General Order B-08, *Field Training Program*, the BFO Deputy Chief shall review each nominee’s testing file and Area Command Review Reports, and review and comment on all sustained IAD findings in the two years period preceding nomination and make a written recommendation of eligibility to the Chief of Police.<sup>63</sup> Also, as stated in Finding #3, FTO nominees are

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<sup>63</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II.C.4.c. Pg. 5.

presumed ineligible to serve as an FTO for 12 months following a “sustained” Class I offense and such cases shall be considered important in evaluating eligibility for two years following the completion of the investigation. The BFO Deputy Chief is required to complete the BFO Deputy Chief Review Report, endorse the nomination, and select nominated officers to attend the FTO Oral Board testing phase.

The Auditor reviewed the 52 FTO testing files to determine if the BFO Deputy Chief Review Reports were completed properly. There were completed reports in 51 of the 52 files. As stated in finding #3, one nominee did not go through the normal chain of command review and was therefore missing the Area Command Review Reports and BFO Deputy Chief Review Report. A BFO Deputy Chief documented their review of the testing file and the Area Command Review Reports in all 51 files by checking a box that these reviews were conducted. The BFO Deputy Chiefs endorsed 49 nominees and selected them to attend the FTO Oral Board by checking the box, *“I recommend the officer continue to the FTO Oral Board.”* There was one nominee that was not endorsed by a BFO Deputy Chief and one nominee for which the Deputy Chief left the endorsement checkbox blank.

For the 51 testing files with a completed BFO Deputy Chief Review Report, there were 18 nominees who had at least one “sustained” complaint finding in the two years preceding nomination. Three of the 18 nominees had a “sustained” Class I complaint finding.<sup>64</sup> To confirm which nominees had “sustained” complaint findings, the Auditor reviewed both the FTO Nomination Matrix Reports and the employee profiles in Vision for all nominees. Once the Auditor confirmed which nominees had “sustained” complaints and how many they had, the Auditor reviewed the BFO Deputy Chief Review Reports (TF-3315) to determine if the BFO Deputy Chief commented on all “sustained” complaint findings in the two years preceding nomination and made a written recommendation of eligibility to the Chief of Police.<sup>65</sup> The Auditor found no comments by the BFO Deputy Chiefs regarding the “sustained” complaint findings in any of the 18 testing files. However, the Auditor noted that for 6 of these 18 nominees, a lieutenant and/or captain commented on their “sustained” findings. Therefore, the BFO Deputy Chief was able to review comments made by commanders in at least some of the nominees’ files.

As stated in Finding #3, one FTO nominee had a “sustained” Class I complaint finding within one year preceding nomination and was not endorsed by the captain but was supported by the reviewing lieutenant and BFO Deputy Chief. According to policy, the nominee should have been ineligible for the FTO position, yet there were no comments by the BFO Deputy Chief indicating why the nominee was endorsed. Two additional nominees had “sustained” Class I complaint findings in the two years preceding nomination, and there were no comments by any of the reviewers about these findings, even though policy requires that “sustained” Class I findings be evaluated to determine eligibility for the FTO

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<sup>64</sup> Departmental General Order M-03, *Complaints Against Departmental Personnel*, effective date December 22, 2017, categorizes Complaints Against Departmental Personnel as Class I or Class II offenses. Class I offenses are the most serious allegations of misconduct (i.e., excessive force, unlawful arrest, false testimony, racial, ethnic, sexual orientation or gender based on discrimination or slurs, and other serious examples of police misconduct) and, if sustained, shall result in disciplinary action up to and including dismissal and may serve as the basis for criminal prosecution. Class II offenses include all minor misconduct offenses. Part II. E. 1-2. Pg. 4-5.

<sup>65</sup> The BFO Deputy Chief Review Report is now Part 3 of the FTO Nomination Questionnaire.

position. Again, as stated in Finding #3, one of these two nominees was not affirmatively endorsed by the BFO Deputy Chief since the endorsement box on their Review Report was left blank.

There was one nominee that did not receive the BFO Deputy Chief's endorsement. The BFO Deputy Chief checked the box, "*I do not support the officer's nomination for the FTO for the following reasons,*" but did not include any comments explaining their reasons why. The nominee had three "sustained" Class II complaint findings and the reviewing lieutenant supported the nomination and documented their support despite the three "sustained" complaints. However, the reviewing captain did not endorse the nominee and documented the reasons why. The nominee was ultimately selected for the FTO position after review by the Chief of Police.

The Auditor noted that the BFO Deputy Chief Review Report does not provide any instructions for completion and is mostly comprised of checkboxes. The report does not include any language about the requirement to review and comment on "sustained" complaints, nor does it alert the BFO Deputy Chief that nominees with a "sustained" Class I complaint in the year preceding nomination are presumed ineligible to be an FTO. This missing guidance may be the reason none of the reports included comments by the BFO Deputy Chief regarding "sustained" complaints. Also, while the report does include checkboxes for confirmation that the BFO Deputy Chief reviewed the nominees' PRIME (Vision) history and use of force history, it does not instruct the BFO Deputy Chief to comment on data reviewed. Therefore, the OIG recommends that the Department update the BFO Deputy Chief Review Report with instructions on what data should be reviewed and require comments for each data category reviewed. Most importantly, the instructions must clearly state that the BFO Deputy Chief is required to review and comment on any complaints resulting in "sustained" findings. Without the requirement to comment on the data, the Chief of Police or anyone reviewing the file of the nominee has no way of knowing if the "sustained" complaints are concerning or acceptable.

#### **FINDING #6**

**For the four FTO selection processes in 2020 and 2021, the FTO Oral Boards were comprised only of FTU personnel, rather than all personnel listed in policy. Additionally, the Oral Boards convened in 2020 and 2021 included field training-based scenario questions and a report writing exercise, but there were no assessment interviews conducted as required by policy.**

According to Departmental General Order B-08, *Field Training Program*, the BFO Deputy Chief selects nominated officers to attend the FTO Oral Board testing phase<sup>66</sup> and convenes an FTO Oral Board comprised of the following personnel (to administer the Oral Board):

- a. BFO Deputy Chief (Chairperson);
- b. The FTPC;
- c. The Training Section Commander;
- d. A Lieutenant of Police who has worked in the Patrol Division as a commander; and

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<sup>66</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. C.4.e. Pg. 5.

- e. A Sergeant of Police who has worked in the Patrol Division as a supervisor.<sup>67</sup>

The Oral Board testing phase is a pass/fail process and consists of the following testing mechanisms:

- a. An assessment interview;
- b. Field training-based scenario questions; and
- c. A report writing exercise.<sup>68</sup>

The Auditor reviewed the Oral Board section in the 52 FTO testing files to determine if FTO Oral Boards were convened for each FTO selection process, comprised of the personnel listed in policy, and included all the required testing mechanisms. The FTO testing files included a graded scenario-based test and a graded report writing exercise for each nominee. For the 2020 selection processes, each nominee had two assessors who graded the tests, including one police officer and one sergeant of police assigned to the FTU. For the 2021 selection processes, there were three assessors that graded each nominee's test, including two police officers and one sergeant of police assigned to the FTU. There was no documentation in the testing files indicating that the other Oral Board personnel listed in policy participated in the testing process.

Additionally, the Auditor reviewed the nominees' field-training based scenario test scores and their report writing test scores and confirmed that all nominees completed the tests. However, the Auditor noted that there was no documentation in the testing files indicating that the assessment interviews were conducted, which is one of the three testing mechanisms listed in policy.

Since the FTO testing files only included documentation showing that FTU personnel graded the tests and there was no documentation of additional FTO Oral Board members, the OIG met with the Field Training Unit (FTU) on September 21, 2021 to get a better understanding of the oral board process. The OIG asked, "Is the FTO Oral Board comprised of the personnel listed in policy? Where do you document the members, who sat on the board, and do you document this information for each FTO that completed testing?"

The FTU stated, "The FTU handles all Oral Boards and selects officers to attend the FTO school. The FTU presents the Chief of Police with the list of eligible FTOs once they have completed the POST FTO Certification Course and the Chief will then approve the FTOs from that list."

Although all FTOs selected in 2020 and 2021 participated in and completed the Oral Board exam, the Department did not follow the Oral Board process outlined in policy. The 2020 and 2021 Oral Boards did not include the members listed in policy and one of the testing mechanisms (assessment interviews) was not administered. The Oral Board, when comprised of commanders and sergeants, ensures that FTO nominees are vetted by a more diverse group with more combined years of experience and backgrounds, compared to an Oral Board comprised of only FTU personnel. The OIG recommends that the Department should follow policy on the composition of the Oral Boards to allow for a more thorough review of FTO nominees. However, if the Department determines adjustments to the

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<sup>67</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. D.3. a-e. Pg. 5.

<sup>68</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. II. D.4 a-c. Pg.5.

members listed in policy are needed, those adjustments should be made and DGO B-08, *Field Training Program*, should be updated. Additionally, since the Department is not conducting the assessment interviews, it should assess their value and either resume their use or update policy to remove them as a testing mechanism.

### **Additional Observation**

**There were nine FTO nominees (15% of the total nominees) who were not selected during the 2020 and 2021 FTO selection processes due to failing the oral board or due to their complaint history.**

The Auditor reviewed the FTO testing files for officers who were not selected during the 2020 and 2021 FTO selection processes and found that five officers were nominated but not endorsed due to failing the Oral Board testing and four officers were nominated but not endorsed due to their complaint history.

### **FINDING #7**

**Although policy requires the BFO Deputy Chief to convene FTO Screening Panels to review and rank FTO nominees, there were no Screening Panels convened during the 2020 and 2021 FTO selection processes.**

The purpose of the FTO screening panel is to review and rank FTO candidates for certification. According to Departmental General Order B-08, *Field Training Program*, the BFO Deputy Chief shall convene an FTO Screening Panel comprised of the following personnel:

- a. BFO Deputy Chief (Panel Chairperson);
- b. All Area Commanders;
- c. Office of Inspector General Commander;
- d. Internal Affairs Division Commander;
- e. Use of Force Subject Matter Expert; and
- f. FTPC.<sup>69</sup>

The FTO Screening Panel is responsible for the following:

- a. Collectively review all officers who have successfully completed the FTO testing process.
- b. Tier officers into groups of candidates consisting of
  1. Exemplary candidates,
  2. Candidates who exceed minimum selection standards,
  3. Candidates who meet minimum selection standards, and if applicable,
  4. Candidates, who, although passed the testing process, fail to meet the FTO Screening Panel's standard.
- c. Rank the candidates in Tier 1-3 above, in descending, order to create an FTO Eligibility List. (NOTE: Candidates in Tier 4 are disqualified and shall not appear on the FTO Eligibility List.)
- d. Present the FTO Eligibility List to the Chief of Police for certification.<sup>70</sup>

The Auditor reviewed the 52 FTO testing files and the Eligibility Lists to determine if FTO Screening Panels were convened for each FTO selection process held and if they were comprised of the personnel

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<sup>69</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III. A.1. a-f. Pg. 6.

<sup>70</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III. A.2. a-c. 1-4. Pg. 6.

listed in policy. Upon review, the Auditor found no documentation in the FTO testing files indicating that the screening panels had occurred, and nominees on the Eligibility List were not ranked into Tiers.

When asked about screening panels, in a meeting on September 21, 2021, the FTU stated, “the FTO Screening Panel is skipped because the FTO nomination and matrix reviewed by the candidate Officer’s Chain of Command includes the same metrics that the Screening Panel reviews. Therefore, if the candidates pass the Oral Board, they are placed on the eligibility list. The FTU selects candidates from the FTO Eligibility List to attend the POST-Certified FTO Course. The FTU forwards a memorandum to the Chief of Police when candidates have completed the POST-Certified FTO Course, and the Chief of Police certifies the officers as FTOs.”

In a review of the FTO program published in January 2016, the OIG found that the screening panel added limited value in the nomination process and recommended that its relevancy be reevaluated.<sup>71</sup> The review noted that convening screening panels presented scheduling problems and created unnecessary redundancy by requiring the BFO Deputy Chief and area commanders to review and endorse the nominee twice. However, DGO B-08, *Field Training Program*, has not been updated since that recommendation was made and still requires the convening of a screening panel. Therefore, the OIG reiterates its recommendation that the department reevaluate the necessity of convening a FTO Screening Panel and update policy if necessary.

#### **FINDING #8**

**All 52 officers selected for the position of FTO during the review period completed the POST-Certified<sup>72</sup> FTO Course, which is required by policy before being certified as an FTO.**

According to Departmental General Order B-08, *Field Training Program*, the FTU shall forward a memorandum to the Chief of Police when candidates have completed the POST-Certified FTO Course and provide recommendations as to which candidates best meet the needs of the FTU. Only the Chief of Police may certify an officer as an FTO.<sup>73</sup> To determine if all selected FTOs completed the POST-Certified FTO Course, the Auditor requested via the Field Training Unit, the training rosters (course attendance reports) for the FTO courses hosted in 2020 and 2021. The Auditor reviewed the training rosters to verify that all 52 FTOs selected in 2020 and 2021 attended the course. In addition, to verify course completion and the Chief’s certification of the FTOs, the Auditor reviewed the 52 FTO testing files, to ensure each file included the following:

- Appointment memoranda forwarded by the FTU to the Chief of Police confirming that each FTO completed the POST-Certified FTO Course; and
- A certificate of completion of the 40-hour POST-Certified FTO Course (signed and dated by the Chief of Police).

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<sup>71</sup> January 2016 Monthly Progress Report of the Office of Inspector General. <https://oaklandca.s3.us-west-1.amazonaws.com/government/o/OPD/a/publicreports/oak056601.pdf>

<sup>72</sup> The California Commission on Peace Officer Standards and Training (POST) is the State of California’s database that tracks all POST required training for sworn employees.

<sup>73</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III.D.1-2. Pg. 7.

Upon review of the training rosters, the Auditor found that all 52 FTOs signed and dated a training roster as evidence of attending the POST-Certified FTO Course. The Auditor also found that all 52 FTO testing files included appointment memoranda and course completion certificates that were signed and dated by the Chief of Police. Therefore, the Auditor noted that all 52 selected FTOs completed training and were certified as required by policy.

**Additional Observation**

**Twenty-two of the 23 active FTOs that were certified prior to 2020 attended the POST-Certified FTO Update Course at least once every three (3) years to maintain certification. The Auditor noted, however, that the most recent POST-Certified FTO Update Courses (July 2020 and May 2021) were not listed in Vision.**

According to Departmental General Order B-08, *Field Training Program*, FTOs shall attend a POST-Certified FTO Update Course at least once every three (3) years to maintain certification.<sup>74</sup> The Auditor requested and obtained, via the Field Training Unit, the training records for all active FTOs, certified prior to 2020, and reviewed each FTO's training record in the Vision System to determine if they attended the POST-Certified FTO Update Course at least once every three (3) years to maintain certification. Upon review, the Auditor found that 22 of the 23 Active FTOs certified prior to 2020 attended the POST-Certified FTO Update Course at least once every three (3) years.

There was one FTO certified in the beginning of 2014 who attended their initial POST-Certified FTO Course in December 2013. The next FTO course documented in their training record was in December 2019, more than three years later.

While reviewing the training records in Vision for the active FTOs certified prior to 2020, the Auditor noted that the most recent POST-Certified FTO Update Courses in July 2020 and May 2021 were not available in Vision. However, the training rosters reviewed by the Auditor confirmed the courses took place. In a meeting with the Field Training Unit on November 17, 2021, OIG asked why the training records were not displaying in Vision. The FTU stated that they will send all completed training rosters to the Department's Training Division for entry into METR,<sup>75</sup> which feeds Vision.

**FINDING #9**

**Upon review of the 2020 and 2021 FTO 40 Hour Course Curriculum/Course Topic Outline, the Auditor found that the POST-Certified FTO Course Curriculum included all course topics listed in policy.**

According to Departmental General Order B-08, *Field Training Program*, the FTU shall ensure all POST-Certified FTO courses minimally consist of the following course topics:

- a. Professionalism, ethics, and leadership;
- b. Expectations, functions, and roles of the FTO;
- c. Competency, evaluation, and documentation;

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<sup>74</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. III. D.4. Pg. 8.

<sup>75</sup> METR (Managing Employee Training Records built by LEFTA systems) is the Department's Training Database that tracks all training data and feeds that data to Vision.

- d. Teaching and training skills development; and
- e. Legal and liability issues for FTOs.

The Auditor requested and obtained, via the Field Training Unit, a copy of the Course Curriculum/Course Topic Outline for the POST-Certified FTO Courses held in 2020 and 2021. There was one course outline with the same curriculum used for all four 40-hour courses held in 2020 and 2021. The Auditor reviewed the course outline to determine if the Certification Course included all the required topics. Upon review of the 2020 and 2021 FTO 40-Hour Course Curriculum/Course Topic Outline, the Auditor found that the POST-Certified FTO Courses included all required course topics.

Twenty-seven of the 40 hours covered the topics required by policy and 13 covered additional miscellaneous topics (Table 3 breaks down the course topics by hour).

**Table 3: 2020 and 2021 FTO 40-Hour Course Curriculum/Course Topic Outline**

Topics Required by Policy	# Of Hours
Ethics and Professionalism Expectations and Roles of the FTO	4.0 hours
Leadership	4.0 hours
Expectations, Functions, and Roles of the Field Training Officer	2.0 hours
Competency Evaluation and Documentation	7.0 hours
Teaching and Training Skills Development	4.0 hours
Teaching and Training Skills Demonstration	2.0 hours
Legal and Liability Issues for FTOs	4.0 hours
<b>Total</b>	<b>27.0 hours</b>
Topics Not Required by Policy	# Of Hours
Introduction and Orientation	1.0 hours
Goals and objectives	1.0 hours
Driver Awareness /Driver Safety	4.0 hours
Intervention Techniques	1.0 hours
Remediation	2.0 hours
Test and Scenario Development Strategies	2.0 hours

Case Study Presentation	2.0 hours
<b>Total</b>	<b>13.0 hours</b>

**FINDING #10**

**The recertification process required by policy did not occur for the three FTOs who were recertified in 2020 and 2021. However, all three recertified FTOs did attend a POST-Certified FTO Course within the three years prior to being recertified, as required by policy.**

According to Departmental General Order B-08, *Field Training Program*, an officer who was certified as an FTO within the past five (5) years and currently working as an officer in Patrol, Foot Patrol or in a specific field-based unit, authorized to serve as an FTO, may be recertified in the following manner:

- a. The officer’s Patrol sergeant will verify the officer meets the qualifications listed in Part II, B, 1-10; by completing and forwarding an FTO Nomination/Recertification Questionnaire directly to the Field Training Unit (FTU);<sup>76</sup>
- b. The FTU will locate the officer’s Field Training File; complete an FTO Nomination/Recertification Matrix Report; Obtain all Use of Force reports for a period of 30 months preceding the recertification request; Prepare an Area Command Review Report for each commander in the officer’s chain-of-command; Prepare a BFO Deputy Chief Review Report; and, Place all Reports in the officer’s Field Training File and forward through the officer’s chain-of-command to the Chief of Police for endorsement.<sup>77</sup>
- c. The Area Commanders (lieutenants and captains) will review the officer’s Field Training File and complete and forward an Area Command Review Report through the chain-of-command to the BFO Deputy Chief;<sup>78</sup>
- d. The BFO Deputy Chief will review the officer’s Field Training File, the Area Command Review Report, and complete and forward a BFO Deputy Chief Review Report to the Chief of Police;<sup>79</sup> and
- e. An officer must have attended a POST FTO Course or POST FTO Update Course within the past three (3) years prior to being recertified.<sup>80</sup>

The Auditor noted that the FTO recertification process is the same as the FTO nomination process with the exception that the officer does not have to redo the FTO Oral Board testing or go through the FTO Screening Panel. Therefore, instead of the files being returned to the Field Training Unit for further processing, in the recertification process, the BFO Deputy Chief forwards the files directly to the Chief of Police. Additionally, the BFO Deputy Chief is not required to review and comment on all “sustained” IAD

<sup>76</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. A. Pg.18.

<sup>77</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. B. 1-6. Pg. 19.

<sup>78</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. C. 1-3. Pg. 19.

<sup>79</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. D. 1-4. Pg. 19.

<sup>80</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. E. 2. Pg. 20.

findings in the two (2) year period preceding nomination or make any written recommendation of eligibility to the Chief of Police during FTO recertification, as is required during FTO nomination.

To determine if all recertification requirements were met prior to officers being recertified for the position of FTO, the Auditor requested and obtained, via the Field Training Unit, a list of recertified FTOs and their Training Files, during the 2020 and 2021 calendar years. There were three officers who were recertified as FTOs, one in July 2020 and two in January 2021. The Auditor found that the Field Training Unit did not complete an FTO training file for any of the three officers who was recertified during 2020 and 2021. Therefore, the Auditor was unable to review any recertification documentation, except for the POST-Certified FTO Courses. The three officers attended POST-Certified FTO Courses within the three years prior to being recertified.

Since there were no files for the three recertified FTOs, the Auditor reviewed the Vision system to check their complaints and use of force incidents in the two years preceding recertification. The Auditor found that, in the two years preceding nomination, none of the three had a “sustained” Class I complaint finding and two had a “sustained” Class II complaint finding, both for preventable vehicle collisions. Additionally, two of the recertified FTOs had no use of force incidents in the two years preceding recertification and the third had one Level 4 use of force. Finally, while one of the recertified FTOs was assigned to patrol at the time of recertification as required by policy, the other two were assigned to the Vehicle Enforcement Unit and the Traffic Investigations Unit. However, both transferred to patrol less than 10 days after being recertified.

When asked why the three recertified FTOs did not have a current FTO training File, the FTU informed OIG that they had overlooked these policy requirements.

If the Department is recertifying FTOs without ensuring they still meet FTO qualification requirements, it is missing the oversight needed to ensure the officers are still in good standing. In addition, if a training file is not being completed for recertified FTOs, although the officer’s chain of command and/or the FTU may have reviewed the officer’s Vision data, the Department is not maintaining documentation confirming the reviews. Therefore, the OIG recommends that the FTU be retrained on the Field Training Program policy to ensure that they are complying with all requirements, including the recertification process. Additionally, the recertification process should align with the nomination process by including requirements that any “sustained” complaint findings for the two-year period prior to recertification be reviewed and commented on by the BFO Deputy Chief, and that any officers seeking recertification not have a “sustained” Class I complaint finding for the 12 months preceding recertification.

#### **FINDING #11**

**There were 40 FTOs decertified in 2020 and 2021 and the FTO files for all 40 included a memorandum prepared by the FTU that was forwarded through the chain-of-command to the Chief of Police. However, there were two active FTOs certified prior to 2020 who had a “sustained” Class I complaint, in 2018 and 2019 respectively, but were not decertified.**

According to Departmental General Order B-08, *Field Training Program*, FTO decertification shall occur under the following conditions.

1. FTO promoted to higher rank
2. FTO transferred out of Patrol
3. FTO on voluntary loan for more than 90 days
4. FTO transferred due to illness/injury, exceeding 90 days
5. FTO requests decertification
6. FTO does not receive an “overall” fully effective performance appraisal
7. FTO placed on Performance Deficiency Notice (PDN)
8. FTO is the subject of the following Class I complaints where a presumptive finding is determined to be “sustained”
  - a. Excessive force
  - b. unlawful arrest
  - c. false testimony
  - d. racial, ethnic, sexual orientation or gender-based discrimination or slurs
  - e. other serious misconduct<sup>81</sup>

In addition, the BFO Deputy Chief shall notify the FTU of the decision (to decertify an FTO) and forward all documentation to the FTU.<sup>82</sup> The FTU shall prepare a memorandum recommending decertification of an FTO whenever a “sustained” IAD finding has been received or a pattern of disregard for policy or procedures appears to have developed, as above. The memorandum shall be forwarded through the chain-of-command to the Chief of Police.<sup>83</sup>

The Auditor requested and obtained, via the Field Training Unit, a list of all FTOs decertified or removed from the FTO program in 2020 and 2021 and their files. There were 40 FTOs decertified in 2020 and 2021 (14 in 2020 and 26 in 2021). The Auditor reviewed the FTO files for each FTO decertified to determine if the Department followed policy in their decertification process. Upon review of the files for the 40 decertified FTOs, the Auditor found that all were decertified in accordance with policy. Three FTOs (one certified in 2020, one certified in 2021, and one certified in 2016) were decertified due to a “sustained” Class I complaint finding. One FTO (certified in 2020) was decertified due to performance deficiencies. The remaining 36 FTOs were decertified for reasons not related to complaints or performance, such as transferring out of patrol, promoting to a higher rank, or upon request by the FTO. Table 4 breaks down the reasons for decertification.

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<sup>81</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014.VIII.A. 1-8. Pg. 17.

<sup>82</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. VIII. A. 10. Pg. 18.

<sup>83</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. VIII. B. 2. Pg. 18.

**Table 4: Reasons for FTO Decertification in 2020 and 2021**

Decertification Reasons	Number of FTOs Decertified in 2020	Number of FTOs Decertified in 2021
a. FTO promoted to higher rank	4	2
b. FTO transferred out of Patrol	2	10
c. FTO on loan for more than 90 days	0	0
d. FTO transferred due to illness/injury, exceeding 90 days	0	5
e. FTO requests decertification	7	6
f. FTO does not receive fully effective appraisal	0	0
g. FTO placed on PDN	1	0
h. FTO is “sustained” for Class I - force, unlawful arrest, false testimony, discrimination, other serious misconduct	0	3
<b>Total number of FTOs decertified in 2020</b>	<b>14</b>	<b>26</b>

The Auditor reviewed the FTO testing and training files for the 40 FTOs decertified in 2020 and 2021 to determine if the FTU prepared a memorandum recommending decertification and forwarded the memoranda through the chain-of-command to the Chief of Police. Upon review, the Auditor found that all 40 FTO files included a memorandum that was prepared by the FTU in which the FTU provided reasons for recommending decertification. In addition, all memoranda were signed by the BFO Deputy Chief and the Chief of Police.

The Auditor reviewed the complaint history for all active FTOs in Vision since their initial certification and found that two of the 23 active FTOs certified prior to 2020 had a “sustained” Class I complaint. One was sustained for Manual of Rules (MOR) Section 370.27-1i, use of physical force comparable to a Level 3, in 2018 and the other was sustained for MOR Section 398.76-1a, Refusal to Accept or Refer Complaint (Intentional), in 2019. The Auditor was unable to locate any record of decertification for the two FTOs at the time of the sustained complaint and both FTOs were assigned trainees after the date of their sustained finding. Additionally, according to new California Government Code Section 7286 b (18), the FTO with the sustained finding for use of physical force would have been ineligible to provide training for three years after the date of sustained finding.<sup>84</sup>

In a meeting on November 17, 2021, with the FTU, OIG asked, “Is the FTU monitoring the performance of all FTOs assigned to the Field Training Program? What would be the reasons for them not being decertified?” The FTU stated, “The Sergeant in the FTU gets the lists of FTO sustained findings from the Internal Affairs Division (IAD). The IAD sends the sergeant a complaint report and the FTU will decertify

<sup>84</sup> The FTO with a sustained finding for use of physical force received the sustained finding in March 2018, therefore the three-year prohibition of training was over prior to the initiation of this audit.

any FTOs with a Class I sustained complaint.” The sergeant wasn’t aware that there were two FTOs (certified prior to the 2020) with Class I sustained findings that are still active in the program, however, the FTPC stated that those FTOs are currently working other assignments. In addition, the FTU has corrected their FTO monitoring processes going forward.

The OIG recommends that the Department implement mechanisms to ensure that the FTU is notified of any pending Class I complaints where there is a presumption of a sustained finding and update the Field Training Program policy to incorporate the training prohibitions outlined in California Government Code Section 7286 b (18).

#### **Finding #12**

**Policy does not require a review of an FTO nominee’s PAS Monitoring or Intervention status, even though this may be a helpful indicator when assessing suitability for the position of FTO.**

The Personnel Assessment System (PAS) Activity Review and Report is a comprehensive documentation of the assessment of an individual’s PAS file with the intent of identifying exemplary performance, patterns of at-risk behavior, or substandard performance.<sup>85</sup> The PAS file, which is available in Vision, includes several performance dimensions, for example use of force, complaints, vehicle pursuits, vehicle collisions, sick leave usage, and arrests. If a review of an officer’s performance dimensions indicates possible at-risk behavior or performance issues, the officer may be placed on supervisory monitoring or intervention to correct the behavior or performance. Although DGO B-08, *Field Training Program*, does not require a review of an FTO nominee’s PAS Monitoring or Intervention status, this may be a helpful indicator when assessing suitability for the position of FTO. For example, if the chain of command determines that an officer has a concerning number of complaint allegations that warrants additional supervisory oversight via PAS monitoring, this would be helpful information for an FTO nominee’s chain of command and the FTU to assess when determining suitability for the FTO position.

The Auditor accessed the Vision System and reviewed the PAS Monitoring or Intervention status for all active FTOs and found that one of the active FTOs selected in February 2021 was in PAS Monitoring for their number of uses of force and complaints, and another was in PAS monitoring for a single event. Additionally, three active FTOs certified prior to 2020 were in PAS Monitoring at some point while they were in active FTO status. All three were in PAS Monitoring for their number of complaints.

Since the PAS program is designed to identify possible at-risk behavior and/or performance issues, assessing an FTO nominee’s PAS status could provide insight into their suitability to be an FTO. Additionally, any active FTO that enters PAS Monitoring or Intervention should be evaluated to determine if the behavior or performance identified would impact their ability to continue successfully training new officers. Therefore, the OIG recommends that the PAS status of FTO nominees be assessed and that the FTU be notified of any active FTOs that are placed in PAS Monitoring or Intervention.

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<sup>85</sup> Department General Order D-17, *Personnel Assessment System (PAS)*, effective date November 20, 2013. V. Pg. 6

## Recommendations

Findings	Recommendations
<p><b><u>FINDING #1</u></b></p> <p>Upon review of FTO nominations during 2020 and 2021, the Auditor found that nominating sergeants and commanders forwarded the FTO Nomination Questionnaires for all 52 selected FTOs directly to the Field Training Unit (FTU) as required by policy. However, two of the ten qualification requirements listed in DGO B-08, <i>Field Training Program</i>, Part II B, 1-10, were not included on the Questionnaire. Therefore, the number of years in patrol (Qualification #2) was not documented in any of the FTO testing files, resulting in the selection of one FTO who did not have the required two years of patrol experience. Additionally, although the Questionnaire did not include a section on the quality of citizen contacts (Qualification #7), all but one Questionnaire addressed the qualification in another section.</p>	<p><b><u>Recommendation #1</u></b></p> <p>The Department should update DGO B-08 and FTO nomination forms to ensure the following:</p> <ul style="list-style-type: none"> <li>• All FTO qualification requirements listed in policy are included on the appropriate nomination form</li> <li>• All performance data that would help the Department evaluate the suitability of FTO nominees are stated in policy and included on the appropriate nomination form</li> <li>• Each reviewer’s responsibility for assessing performance data and evaluating suitability of FTO nominees are clearly stated in policy and on the nomination forms, including the BFO Deputy Chief requirement to comment on “sustained” complaint findings</li> <li>• All nomination forms include clear instructions on what data to assess, the time-period of review, and how to document the assessment, including requiring a clear statement supporting or not supporting the nominee</li> </ul> <p>The FTU should review all nomination forms for completion and notify the appropriate reviewer when forms are incomplete.</p> <p><b><u>Recommendation #2</u></b></p> <p>The Department should add the sustained finding date (complaint approval date) to the Employee Profile report so that supervisors</p>
<p><b><u>FINDING #2</u></b></p> <p>Upon review of the 52 FTO testing files for each FTO nominee in 2020 and 2021, the Auditor found that all supporting documents, except the officer’s 30 months of Use of Force Reports, were placed in the FTO nominee’s testing file. Furthermore, policy requires that FTO nominees not have an excessive number of force incidents for the two years preceding nomination and the FTO Nomination Matrices reviewed only included use of force numbers for a two-year period, which does not align with the requirement to include use of reports for 30 months in the testing files.</p>	
<p><b><u>FINDING #3</u></b></p> <p>Upon review of the 52 FTO Nomination Matrix Reports, the Auditor found that not all data fields</p>	

<p>were completed; no Matrix Reports included comments, even though there is a comments field on the report; and the Matrix does not include a field for Sustained Class I complaints. Furthermore, policy does not specify what data should be included on the Matrix Report, nor does it include instructions for completing the Report.</p>	<p>and commanders can easily find the date of the “sustained” finding.</p>
<p><b><u>Additional Observation</u></b></p> <p>The employee profile reports in Vision that summarize performance data do not include the date of complaint finding, which is important in determining if an FTO has had received a “sustained” complaint finding in the two years preceding nomination.</p>	
<p><b><u>FINDING #4</u></b></p> <p>While 51 of 52 FTO testing files included use of force numbers and all 52 files included the number of “sustained” and “not sustained” complaints, none of the 52 FTO testing files included a documented assessment of whether the nominee had an “excessive number of use of force incidents for the two year period preceding nomination” or an “excessive number of complaint allegations for the two year period preceding nomination,” despite policy requiring that nominees not have an excessive number of force incidents or complaint allegations.</p>	
<p><b><u>Additional Observation</u></b></p> <p>The FTO Area Command Review Report is unclear regarding the need for comments when lieutenants and captains support the nominees.</p>	

<p><b><u>FINDING #5</u></b></p> <p>BFO Deputy Chiefs completed a BFO Deputy Chief Review Report in 51 of the 52 FTO testing files but did not comment on the “sustained” findings, as required by policy, for 18 FTO nominees who had a “sustained” complaint finding. One FTO nominee had a “sustained” Class I complaint within the year preceding nomination and should have been ineligible for the FTO position and two others had a “sustained” Class I complaint within the two years preceding nomination, yet there were no comments by the BFO Deputy Chief evaluating their eligibility.</p>	
<p><b><u>FINDING #6</u></b></p> <p>For the four FTO selection processes in 2020 and 2021, the FTO Oral Boards were comprised only of FTU personnel, rather than all personnel listed in policy. Additionally, the Oral Boards convened in 2020 and 2021 included field training-based scenario questions and a report writing exercise, but there were no assessment interviews conducted as required by policy.</p>	<p><b><u>Recommendation #3</u></b></p> <p>The Department should follow policy on the composition of the Oral Boards to allow for a more thorough review of FTO nominees. However, if the Department determines adjustments to the members listed in policy are needed, those adjustments should be made and DGO B-08, <i>Field Training Program</i>, should be updated. Additionally, since the Department is not conducting the assessment interviews, it should assess their value and either resume their use or update policy to remove them as a testing mechanism.</p>
<p><b><u>FINDING #7</u></b></p> <p>Although policy requires the BFO Deputy Chief to convene FTO Screening Panels to review and rank FTO nominees, there were no Screening Panels convened during the 2020 and 2021 FTO selection processes.</p>	<p><b><u>Recommendation #4</u></b></p> <p>The OIG reiterates its recommendation that the department reevaluate the necessity of convening a FTO Screening Panel and update policy if necessary.</p>
<p><b><u>FINDING #10</u></b></p> <p>The recertification process required by policy did not occur for the three FTOs who were recertified in 2020 and 2021. However, all three recertified</p>	<p><b><u>Recommendation #5</u></b></p> <p>The FTU should be retrained on the Field Training Program policy to ensure that they are complying with all requirements,</p>

<p>FTOs did attend a POST-Certified FTO Course within the three years prior to being recertified, as required by policy.</p>	<p>including the recertification process. Additionally, the recertification process should align with the nomination process by including requirements that any sustained complaint findings for the two-year period prior to recertification be reviewed and commented on by the BFO Deputy Chief, and that any officers seeking recertification not have a Class I sustained complaint finding for the 12 months preceding recertification.</p>
<p><b><u>FINDING #11</u></b></p> <p>There were 40 FTOs decertified in 2020 and 2021 and the FTO files for all 40 included a memorandum prepared by the FTU that was forwarded through the chain-of-command to the Chief of Police. However, there were two active FTOs certified prior to 2020 who had a sustained Class I complaint, in 2018 and 2019 respectively, but were not decertified.</p>	<p><b><u>Recommendation #6</u></b></p> <p>The Department should implement mechanisms to ensure that the FTU is notified of any pending Class I complaints where there is a presumption of a sustained finding and update the Field Training Program policy to incorporate the training prohibitions outlined in California Government Code Section 7286 b (18).</p>
<p><b><u>FINDING #12</u></b></p> <p>Policy does not require a review of an FTO nominee’s PAS Monitoring or Intervention status, even though this may be a helpful indicator when assessing suitability for the position of FTO.</p>	<p><b><u>Recommendation #7</u></b></p> <p>The PAS status of FTO nominees should be assessed and the FTU should be notified of any active FTOs that are placed in PAS Monitoring or Intervention.</p>

## APPENDIX A

### Methodology

#### Objective 1

To determine if all Field Training Officer (FTO) qualification requirements were documented and reviewed by the appropriate chain of command for the FTO selection processes conducted in 2020 and 2021, the Auditor took the following steps:

- To determine if the FTO Nomination Questionnaires (TF-3259) were completed properly and forwarded to the FTU, the Auditor requested and obtained, via the Field Training Unit, a list of all FTO nomination processes and the FTO testing files for each officer selected during the 2020 and 2021 calendar years.

The Auditor reviewed the following 10 qualification data fields in the FTO Nomination Questionnaires (TF-3259) to ensure that all 10 qualification data fields were completed by the nominating sergeants or commanders.

1. Possess a Post Basic Certificate
  2. At least 3 years of service and 2 years of patrol experience, unless waived by the Chief of Police
  3. Fully Effective Ratings or better for 2 years preceding nomination
  4. Committed to Department's Mission, Vision and Values
  5. Possess high level of professionalism and ethical conduct
  6. Understand importance of developing positive working relationships with the community
  7. Understand the importance of making quality citizen contacts
  8. Demonstrate a commitment to Community Policing
  9. Possess leadership abilities
  10. Demonstrate sound working knowledge of Dept. policies/procedures, interpersonal/tactical communications, problem-solving/decision-making skills, laws of arrest/search/seizure, preliminary investigation skills, and report writing
- To determine if the FTO testing files for each nominee included all supporting documents, the Auditor reviewed the FTO testing files for each officer nominated in 2020 and 2021, to ensure the following supporting documents were included in the nominated officer's FTO testing file.
    - a. FTO Nomination Matrix Report (TF-3249)
    - b. All Use of Force Reports for 30 months preceding the nomination
    - c. Area Command Review Report (TF-3314)
    - d. BFO Deputy Chief Review Report (TF-3315)
  - To determine if the FTO Nomination Matrix Reports were completed properly, the Auditor reviewed the following data fields in the 52 FTO Nomination Matrix Reports to ensure that each data field category was completed.

- Performance appraisals
- Attendance
- Traffic collisions
- Complaints
- Report writing
- Uses of force
- Arrests
- Citations
- Letters of appreciation

In addition, the Auditor reviewed the comments section to determine if the nominating sergeants or commanders made any comments about the data (e.g., concerns, trends or patterns).

The Auditor reviewed Vision for the 52 nominees to determine if any FTO selected in 2020 and 2021 had a sustained Class I complaint that was not documented on the Matrix. If the Auditor found that the FTO nominee had a sustained Class I complaint, the Auditor reviewed Vision to obtain the date of the sustained finding and compared it to the end date of the review period documented on the Matrix. Additionally, the Auditor requested and obtained, via the Field Training Unit, the dates for which the FTO was assigned trainees for the two years after receiving the Class I sustained finding.

- To determine if the commanders reviewed, completed, and forwarded all FTO reports through the chain-of-command to the BFO Deputy Chief, the Auditor accessed the FTO testing file for each nominated officer and reviewed the following data field checkboxes in the Area Command Review Reports (TF-3314),<sup>86</sup> to ensure they were checked off by the lieutenants and captains as evidence of their review and completion of the report.
  - Reviewed the officer's Field Testing
  - Reviewed the officer's Use of Force reports
  - Reviewed the officer's Supervisory Notes File
  - Reviewed the officer's VISION history
  - Reviewed the officer's Complaint history

The Auditor also confirmed that the commanders checked one of the boxes either supporting the nominee or not supporting the nominee.

- Support the officer's nomination as an FTO
- Do not support the officer's nomination as an FTO

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<sup>86</sup> The Area Command Review Reports is now Part 2 of the FTO Nomination Questionnaire.

- To determine if the BFO Deputy Chief Review Reports were completed properly, the Auditor accessed the FTO testing file for each nominated officer and reviewed the following data field checkboxes in the BFO Deputy Chief Review Report (TF-3315) to ensure they were checked off by the BFO Deputy Chief as evidence of their review and completion of the BFO Deputy Chief Review Report.
  - Reviewed the officer's Field Training Nomination Folder
  - Reviewed the Area Command Review
  - Reviewed the Prime (Vision) history
  - Reviewed the Use of Force history

The Auditor also confirmed that the BFO Deputy Chief checked one of the boxes to either recommend the officer continue to the FTO Oral Board or not support the officer's nomination for FTO.

To confirm which nominees had sustained complaint findings, the Auditor reviewed the following data fields in the IAD History section of the FTO Nomination Matrix Report (TF-3249).

- Number of "not sustained" Class I complaints
- Number of "not sustained" Class II Complaints
- Number of "sustained" Class II Complaints
- Number of Open IAD Investigations

The Auditor also reviewed the employee profiles in Vision for each nominated officer. The Auditor reviewed the FTO Nomination Matrix Report and the employee profiles in Vision to ensure the number of "sustained" and "not sustained" complaint findings matched.

In addition, since the FTO Nomination Matrix Report did not have a field for "sustained" Class I complaints, the Auditor reviewed Vision to determine if any FTO nominee had a "sustained" Class I complaint that was not documented on the Matrix. Once the Auditor confirmed which nominees had sustained complaints and how many they had, the Auditor reviewed the BFO Deputy Chief Review Reports (TF-3315) to determine if the BFO Deputy Chief commented on all sustained complaint findings in the two years preceding nomination and made a written recommendation of eligibility to the Chief of Police.

## **Objective 2**

To determine if FTO Oral Boards were convened for each FTO selection process, comprised of the personnel listed in policy, and included all the required testing mechanisms, the Auditor reviewed the FTO testing Files to ensure they included documentation that each nominee attended an FTO Oral Board and if the FTO Oral Board was comprised of the personnel listed in policy. In addition, the Auditor reviewed the Oral Board tests for each officer selected to determine if the officer passed all three testing mechanisms.

### **Objective 3**

To determine if FTO Screening Panels were convened for each FTO selection process held and if they were comprised of the personnel listed in policy, the Auditor conducted interviews with the Field Training Unit to determine what personnel sat on the FTO Screening Panel and if the Department documented those members for each FTO that was screened. In addition, the Auditor reviewed the FTO Eligibility Lists to verify that all FTOs on the list passed the FTO screening with tier 1-3 or above.

### **Objective 4**

To determine if all selected FTOs completed the POST-Certified FTO Course and were certified by the Chief of Police to be an FTO, the Auditor requested and obtained, via the Field Training Unit, the in-service training rosters/course attendance reports for the FTO Courses hosted in 2020 and 2021. The Auditor reviewed the in-service training rosters/course attendance reports to verify that all FTOs selected in 2020 and 2021 attended the POST-Certified FTO Course. In addition, to verify the Course completion and the Chief's certification of the officers (FTOs), the Auditor reviewed the FTO testing Files for each officer (FTO), to ensure each file included the following:

- An appointment memorandum forwarded by the FTU to the Chief of Police showing where the FTOs completed the FTO course; and,
- A Certificate of completion of the 40 hours FTO Course (signed/dated by the Chief of Police).

The Auditor also requested and obtained, via the Field Training Unit, the training records for all active FTOs, certified prior to 2020, and reviewed each FTO's training record in the Vision System to determine whether all FTOs certified prior to 2020 attended the POST-Certified FTO Update Course at least once every three (3) years to maintain certification.

### **Objective 5**

To determine if the Certification Course included all the required topics, the Auditor requested and obtained, via the Field Training Unit, a copy of the Course Curriculum/Course Topic Outline for the POST FTO Certification Courses held in 2020 and 2021, the Auditor reviewed the course outline to determine whether the Certification Course included the following required topics.

1. Professionalism, ethics and leadership
2. Expectations, functions, and roles of the FTO
3. Competency, evaluation, and documentation
4. Teaching/training skills development
5. Legal and liability issues for FTOs

### **Objective 6**

To determine if all recertification requirements were met prior to officers being recertified for the position of FTO, the Auditor requested and obtained, via the Field Training Unit, a list of recertified FTOs and their Training Files, during the 2020 and 2021 calendar year. The Auditor sought to review the FTO training Files for each recertified FTO to determine whether all recertification requirements were met prior to the officer being recertified for the position of FTO, including:

- a. The officer's Patrol sergeant will verify the officer meets the qualifications listed in Part II, B, 1-10; by completing and forwarding an FTO Nomination/Recertification Questionnaire directly to the Field Training Unit (FTU);<sup>87</sup>
- b. The FTU will locate the officer's Field Training File; complete an FTO Nomination/Recertification Matrix Report; Obtain all Use of Force reports for a period of 30 months preceding the recertification request; Prepare an Area Command Review Report for each commander in the officer's chain-of-command; Prepare a BFO Deputy Chief Review Report; and, Place all Reports in the officer's Field Training File and forward through the officer's chain-of-command to the Chief of Police for endorsement.<sup>88</sup>
- c. The Area Commanders (lieutenants and captains) will review the officer's Field Training File and complete and forward an Area Command Review Report through the chain-of-command to the BFO Deputy Chief;<sup>89</sup>
- d. The BFO Deputy Chief will review the officer's Field Training File, the Area Command Review Report, and complete and forward a BFO Deputy Chief Review Report to the Chief of Police;<sup>90</sup> and
- e. An officer must have attended a POST FTO Course or POST FTO Update Course within the past three (3) years prior to being recertified.<sup>91</sup>

### **Objective 7**

To determine if the Department followed policy in their decertification process, the Auditor requested and obtained, via the Field Training Unit, a list of all FTOs decertified or removed from the FTO program in 2020 and 2021 and their files. The Auditor reviewed the FTO files for each FTO decertified to determine if the Department followed policy in their decertification process.

According to Departmental General Order B-08, *Field Training Program*, FTO decertification shall occur under the following conditions:

- a. FTO promoted to higher rank
- b. FTO transferred out of Patrol
- c. FTO on loan for more than 90 days
- d. FTO transferred due to illness/injury, exceeding 90 days
- e. FTO requests decertification
- f. FTO does not receive fully effective appraisal
- g. FTO placed on PDN
- h. FTO is sustained for Class I – force, unlawful arrest, false testimony, discrimination, other serious misconduct

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<sup>87</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. A. Pg.18.

<sup>88</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. B. 1-6. Pg. 19.

<sup>89</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. C. 1-3. Pg. 19.

<sup>90</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. D. 1-4. Pg. 19.

<sup>91</sup> DGO B-08, *Field Training Program*, effective date June 2, 2014. IX. E. 2. Pg. 20.

The Auditor also reviewed the FTO testing and Training Files for each FTO decertified in 2020 and 2021 to determine if the FTU prepared a memorandum recommending decertification and forwarded the memoranda through the chain-of-command to the Chief of Police.

In addition, the Auditor reviewed the Vision System and reviewed the sustained findings for all FTOs since their initial certification to ensure no active FTOs had a Sustained Class I complaint.

## APPENDIX B



**OAKLAND POLICE DEPARTMENT  
FIELD TRAINING UNIT  
FTO NOMINATION/RECERTIFICATION MATRIX**



Nominee's Name:	Serial No.
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Matrix information collected for the time period from:            to

<b>SENIORITY:</b>	
Date Sworn	
<b>PERFORMANCE APPRAISALS:</b>	
Current Year	
Previous Year	
<b>ATTENDANCE:</b>	
Number of days off due to sickness	
<b>TRAFFIC COLLISIONS:</b>	
Number of Preventable Traffic Collisions	
<b>IAD HISTORY:</b>	
Number of Not Sustained Class 1 Complaints	
Number of Not Sustained Class 2 Complaints	
Number of Sustained Class 2 Complaints	
Number of Open IAD Investigations	
<b>REPORT WRITING:</b>	
Number of positive CERs/RRNs	
Number of negative CERs/RRNs	
<b>USE OF FORCE:</b>	
Total Number of Use of Force Incidents	
Level 1	
Level 2	
Level 3	
Level 4	
<b>PERFORMANCE:</b>	
Letters of appreciation	
Number of felony arrests	
Number of misdemeanor arrest	
Number of citations	
<b>ORAL BOARD: (Not required for Recertification)</b>	
Oral Interview Assessment Score	
Report Writing Review Score	

**Comments:**

Prepared by:	Serial No.	Date:
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