

POLICE SPECIAL INVESTIGATIONS AUDIT



WEST PALM BEACH

Internal Audit

Audit No. 20-01
September 30, 2021

**City of West Palm Beach
Internal Auditor's Office**

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September 30, 2021

Audit Committee
City of West Palm Beach
401 Clematis Street
West Palm Beach, Florida

RE: Police Special Investigations Audit, AUD20-01

Dear Audit Committee Members:

Attached is the City of West Palm Beach's Internal Auditor's Office report on the Police Special Investigations Audit.

We thank the management and staff of the Police Department for their time, assistance, and cooperation during this audit. We also thank our contract auditor, Lt. Dan Olson from LD Consulting LLC, for the work and expertise provided on this engagement.

Respectfully Submitted,

/s/ Beverly Mahaso
Chief Internal Auditor

cc: Keith James, Mayor
Faye Johnson, City Administrator
Frank Adderley, Chief of Police

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Background

The City of West Palm Beach Police Department's (WPBPD) Special Investigations Division (SID) conducts investigations and operations involving surveillance, undercover, decoy, and raid operations. Specialized investigative operations may be conducted against organized crime, narcotics, burglars, vice suspects, and other individuals or groups who commit criminal acts.

SID receives and processes all WPBPD complaints for drug and organized crime. When warranted, they conduct related criminal investigations. They are active in various Federal, State, and local Task Forces formed as a mutual effort among agencies having concurrent or adjoining jurisdiction. As part of their drug enforcement efforts, they also conduct investigations of drug overdose cases.

FY2019 actual budget for the investigative division was \$14,106,210 and for FY2020 the actual budget was \$15,446,668. SID's portion of the budget was approximately \$5,783,546 in FY2019 and \$6,333,133 in FY2020. Overtime hours for SID during FY2019 was about 10,405 hours and about 8,265 hours for FY2020.

Reorganization of SID

In 2017, SID was overseen by a Captain followed by a Lieutenant. In late October of 2019, SID was reorganized with a new Captain and Lieutenant. Under the new structure, a police captain is responsible for SID operations and coordinates WPBPD investigative efforts with the Criminal Investigations Division (CID) captain. Both captains report to the Investigative Services Bureau Assistant Police Chief.

SID is divided primarily into three work groups.

1. The Special Investigations group which includes the Organized Crime Section (OCS), and K9.
2. The Gang Habitual Offender Street Teams (GHOST) under a second lieutenant and the Evidence section under the direction of an evidence supervisor.
3. Property and evidence operations. (See organizational chart for additional information)

The Organized Crime Section (OCS) work narcotics investigations in plainclothes and unmarked vehicles. The Gang Habitual Offender Street Teams (GHOST) primarily focus on narcotics, firearms, and quality of life issues. GHOST members typically work in unmarked vehicles and team specific uniforms. In addition to their proactive enforcement efforts, they locate and apprehend offenders identified through various WPBPD criminal investigations.

In early 2020, the overdose unit was created in SID and was operational in February 2020 under the Gang Habitual Offender Street Teams (GHOST) lieutenant. In July 2020, the unit was moved to the Organized Crime Section (OCS). The purpose of the unit is to investigate overdose cases resulting in illness or death. Unit members interview

associates, friends and family members of victims impacted by overdose deaths. Detectives follow up on information developed from interviews and other data to identify and apprehend illegal drug suppliers particularly in the case of fentanyl related overdose deaths.

Use and Management of Confidential Informants

As part of their criminal investigations, Special Investigations Division (SID) officers recruit and utilize paid confidential informants (CI) to provide information or assistance in the furtherance of criminal investigations. This is a common practice in undercover law enforcement operations. Officers may use citizens to buy illegal drugs or introduce an officer to a drug dealer for the purpose of purchasing illegal drugs. If the individual is only used once, they are considered a “one-time source” and are not considered to be a confidential informant. If an individual is used more than once in this manner by WPBPD officers, the officer is required to register them as a Confidential Informant with the Police Department. Officers are responsible for managing or controlling their CI’s.

Confidential Informants are paid through an investigative fund that is managed by the SID Captain. In Florida, the use of confidential informants by law enforcement is required to comply with “Rachel’s Law” which was enacted to protect Confidential Informants. Florida State law also requires specific accounting procedures for investigative funds.

Motivation for individuals to work as an informant vary but typically involve monetary reward or working to have pending criminal charges reduced or dismissed. Informants may also be motivated by fear, revenge, ego, remorse, concern for the community or an interest in learning law enforcement procedures and the identity of drug agents or drug dealers. Due to the nature of the transactions, operating as an informant is inherently dangerous for the informant and the officer (controlling officer) managing the informant. If the identity of the informant becomes known to individuals involved in criminal activities, the undercover officers or informant’s well-being or lives could be at high risk. Officer misconduct issues when working with informants typically involve officers’ inappropriate personal or business relationships with informants. Failure to properly manage informants often results in losing criminal prosecutions and officer integrity issues.

Searches of Individuals

Searches of individuals and their property is protected under the fourth amendment of the United States Constitution. Generally, searches of a person fall into the following categories.

- Incident to arrest
- Officer safety i.e. Officer sees an outline of a weapon under a person’s shirt
- A person’s consent to search their person or property
- Search warrant issued by a court of jurisdiction

Search warrants written and served by WPBPD have several levels of review. They must be approved by the police supervisor, a state attorney and the signing judge. WPBPD staff advised that they do not conduct “no knock” search warrants.

For a consent search, WPBPD policy requires an officer to complete a consent search

form and obtain the person's signature agreeing to the search. WPBPD officers on the GHOST teams are equipped with body cameras. Policy requires officers to activate their video cameras while in contact with citizens. In the case of a consent search, the body camera should be activated during the entire incident, to include conversations and the signature of the consent form.

Statement of Scope

The audit scope period was from January 1, 2017 through September 30, 2020, however, in some instances, the scope period may have been adjusted based on what was identified and the availability of data.

Statement of Objectives

The objectives of this audit were to:

1. Validate that controls surrounding SID investigations regarding the use of informants are in place and in compliance with WPBPD policy and state law.
2. Validate that investigative fund transactions are adequately supported by documentation as required by WPBPD policy and state law.
3. Evaluate the SID overdose strike team operations.
4. Review reported SID overtime expenditures for compliance with department policies, procedures, and best practices.
5. Evaluate the use of consent searches conducted by SID.

Statement of Methodology

The methodology used to meet the audit objectives included the following:

- A review of documents applicable to SID operations to include WPBPD policies and procedures, Florida State Law, Florida accreditation standards, City policies, overtime records, police reports and other relevant documents.
- Interviews and inquiries of WPBPD staff involved or with knowledge of SID operations.
- Observations of operational practices, procedures, review of applicable documents, and body worn camera video.

Statement of Auditing Standards

We conducted this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Conclusions and Summary of Findings

Overall, the Police Department would benefit from strengthening the internal controls related to management and monitoring activities over confidential informants, investigative funds, and overtime programs. Specifically:

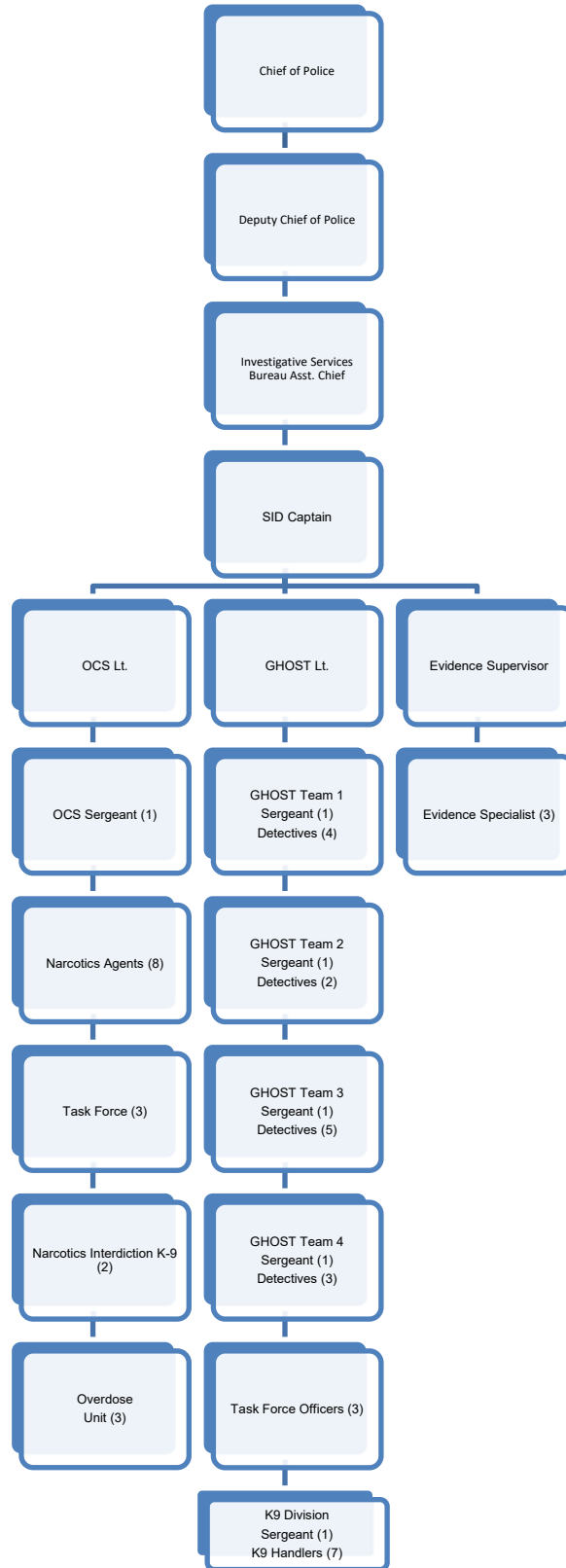
- Procedural changes regarding Confidential Informants documents and additional reviews to enhance internal controls.
- Procedural changes regarding investigative fund documents and additional internal controls to increase Confidential Informants information.
- Procedural changes regarding overtime documentation to enhance analysis.
- Procedural changes regarding consent searches.

Noteworthy Accomplishments

We found knowledgeable and dedicated personnel in the Special Investigations Division (SID) that were receptive to our recommendations for improvement. We acknowledge the Special Investigations Division's efforts to enforce drug related and organized crimes and improve operations.

In late 2019, SID was reorganized to address operational issues which ultimately resulted in the assignment of the current captain to SID. Under the current captain we noted a distinct improvement in operations particularly those related to accountability. We commend the current captain for taking the necessary action to correct operational issues. We also commend the current captain for taking corrective action throughout the audit as issues were identified.

Police Special Investigations Organization Chart



Opportunities for Improvement

1. Oversight of Confidential Informants

Condition

We reviewed the management of confidential informants (CI) by the Special Investigations Division (SID) and found that there were opportunities to improve related to the procedures in place at the time of our review.

CI Folder Review: SID requires officers to register CI's with the department, obtain specific information and follow specific requirements which include maintaining the CI's anonymity and specifying the CI's role. The information is maintained in a folder for each CI in a secure location with restricted access. The required forms are explained to the CI by the controlling officer and signed by the CI. The CI must also be approved by the SID chain of command.

SID has written procedures to securely retain informant information such as a sign in roster that is maintained and secured in a cabinet with the informant folders. Anyone reviewing an informant folder is required to sign the roster, however, we found that the roster does not have a field to list the reason the file was reviewed.

CI Contact Forms: Each time an officer contacts an informant, the officer is required to complete and submit a contact form. Officers are required to have another officer present when meeting an informant. Controlling officers' supervisors are required to contact the informant every quarter and document the contact on a CI quarterly review form which is placed in the CI folder. This is to verify that the informant is following the informant agreement and that the officer is complying with policy. It is designed to help prevent inappropriate conduct by the informant, the officer, or both.

In addition to the file folders, CI information is uploaded to the INTEL portion of the records management system that has restricted access. We found that officer contact forms completed by an officer when there is no payment made to an informant, are uploaded in the INTEL system, but the hard copy is not consistently placed in the informant folder. This is critical to ensure the control of the original document.

CI INTEL System: SID utilizes the INTEL system to store digital copies of informant records. The software has an internal tracking feature to identify user access and files reviewed. This file is restricted to authorized personnel only. However, we found that there is no review or inspection of this tracking data to identify inappropriate access to informant information.

Quarterly Supervisory Reviews of CIs: The controlling officers' supervisors are required to contact the informants every quarter and document the contacts on a CI quarterly review form which is placed in the CI folder. This is to verify that the informant is following the informant agreement and that the officer is complying with policy.

We found that quarterly supervisory CI reviews are typically conducted with a phone call rather than in person. During the interview, supervisors ask the CI several questions based on the confidential informant supervisor contact review form. The questions are to determine if there may be any violations of department policy between the controlling officer and the CI. As such, the interviews may be more effective in person.

File Retention: Typically, CI's are deactivated if the controlling officer has not had contact in the last 90 days or if CI misconduct occurs. The deactivated CI folders are retained for future reference or in case the CI is reactivated.

We found that there were a number of old CI files in the basement storage dating back several years that were retained by SID but may be past the Florida State document retention date requirement.

Criteria

In Florida the use of CI's is specifically addressed in Florida State statute (FSS) 914.28, commonly referred to as Rachel's law. The law was named after Rachel Hoffman who was killed during an operation while acting as a CI. The incident brought to light the lack of consistent CI policies in Florida, and the law was enacted to ensure CI's are handled in a safe manner by Florida law enforcement officers.

The law requires police informants to be told that their undercover work cannot guarantee a reduction in any pending criminal charges, immunity or a reduced sentence. It ensures CIs are afforded the right to obtain private legal counsel before agreeing to go undercover. The law mandates law enforcement agencies develop policies for the recruitment, control and use of CIs. Those policies must include restrictions on off-duty association and require supervisory approval before a juvenile is recruited. A person's age, substance abuse history or drug court status also must be considered. Access to CI records within an agency also must be controlled, noting each person who views them. Officers working with CI's are required to attend periodic training on Rachel's law.

WBPD SOP IV-8 contains procedures for managing informants. WPBPD is a member of the Commission for Florida Law Enforcement Accreditation which stipulates procedures regarding informants consistent with Rachel's law per standard 15.03M.

Law enforcement management are responsible for implementing policies and procedures in compliance with FSS 914.28 for the safety of the community, officers, informants and suspects when an informant is utilized.

Cause

The issues identified above were primarily procedural issues that SID had not considered. However, the current Captain advised that immediate corrective action would be taken.

Effect

CI Folder Review: The lack of a review field on the CI review form, increases the risk that later review of the folder will not document the necessity of the file review. It will also ensure that individuals reviewing the files understand that they must document a reason for the review. This will reduce the risk of unauthorized or unneeded review and potential release of confidential informant information.

CI Contact Forms: Failure to file the original or hard copy of the contact form in the CI folder increases the risk that the document may be misplaced, and the information viewed by unauthorized persons.

CI INTEL Software: The lack of an inspection of the data tracking feature in INTEL software used to store informant information, increases the risk of unauthorized or unneeded queries by employees of informants and the potential release of confidential informant information. Once employees understand that an inspection is in place, it should reduce the risk of improper use of the system.

Quarterly Supervisory Reviews of CIs: Without a thorough supervisor CI review there is a risk that the officer and the CI may be involved in out of policy conduct or illegal activities. These violations may occur in the following manner:

- Officer and CI involved in business or personal/sexual relations
- Officer retained some of the “buy money”
- Officer borrowed money from the CI
- Officer allowed the CI to keep some of the money provided to buy drugs
- Officer kept or used some of the purchased drugs
- Officer shared confidential information with the CI
- Officer let the CI commit crimes that were not reported
- Officer let the CI keep unreported profits from illegal drug deals

File Retention: The older CI files retained, pose the risk that this practice may not be in compliance with Florida public records retention laws.

Recommendation 1

The Police Department should ensure appropriate management and oversight of Confidential Informants by:

- a. Revising the form to document the review of CI folders such that it includes a field to list the “reason for review”.
- b. Developing and implementing a policy requiring that after scanning into the INTEL system all original/hard copies of the contact forms for CI’s are forwarded to the Captain to be secured in the corresponding CI file.
- c. Developing and implementing a policy requiring periodic verification inspections of the CI information maintained in the INTEL software system to identify any inappropriate or unnecessary review of informant records. SID staff should be made aware of this inspection prior to implementation and it should be addressed

in the Rachel's law training of WPBPD personnel. This inspection could be documented in the annual CI audit review conducted by the SID captain.

- d. In consultation with the Police Department's legal adviser, command staff should develop and implement a review of older CI files to determine their status with Florida public records retention laws. As a result of the review, any records meeting purge criteria should be destroyed, and related policies revised as needed. The results should be documented in a memorandum to the Assistant Chief of Investigations (or similar position if changed) and after approval, filed with the current CI files for documentation.
- e. Developing and implementing a policy requiring that quarterly supervisory reviews of confidential informants be conducted in person. This should allow the supervisor to verify that they are speaking with the CI and evaluate the CI's mental and physical well-being and how they interact with the contact officer.

Management Response 1

CI Folder Review – The CI folder log was updated after recommendations by the auditor. Two boxes have been added to the log sheet to include the Intel number (to show what CI folder was being looked at) and the reason for review of folder. This log is secured in a locked file cabinet with CI folders.

CI Contact Forms – Implemented after audit - All CI Contact sheets will have the Informants assigned Intel number on them.

- Implemented after audit - CI Contact forms only, when no payment made, but contact made and CI Contact form filled out, will be scanned as activity in the INTEL Module, original Contact Form is turned into Captain, to be placed into the CI Folder.

CI INTEL Module - Conducted after the audit - An audit was done by the Captain to see current access list into the secured Module, any Agents or Detectives no longer with the Division have had rights removed for access. Refresher training will be done by the end of September 2021, to ensure all Detectives and Agents assigned know how to use ALERT System, when the CI File is opened or reviewed by any approved current user.

Quarterly Supervisor Reviews – Currently being done, all supervisors with Detective and Agents that have active CIs, complete a quarterly contact of the CI. A Quarterly CI Form is completed by supervisor, this is scanned into the CI INTEL Folder as an activity. The supervisor then turns in the original form to SID Captain, who then files the original into the CI Folder.

- All quarterly contacts are to be made in person by Sergeant, unless circumstances prevent this, then the supervisor is to make the SID Captain aware. (There were several that were not made in person during COVID.)

File Retention – Currently the CI Files and IFE Paperwork that is accessible within the SID Division CI Cabinet is still within record retention years. By end of September 2021, a record retention audit of the basement of the police department, will be inspected by the Captain to ensure that if any past CI paperwork or folders are located, they will be

properly destroyed and documented.

Recommendation 1

A) Done, since audit October 2020

B) Done, October 2020, will look at current policy to add line where applicable (utilize PD Legal Advisor) by end October 2021

C) Will develop or add to policy, will discuss with PD Legal Advisor, by end Oct. 2021

D) Will develop or add to policy, will discuss with PD Legal Advisor, by end Oct. 2021

E) Done and new implementation on form and in person contacts, this is addressed in the Supervisor Quarterly Form Recommendation notes.

Target Implementation Date:

- Recommendation B, C, and D will be looked at and discussed with PD Legal Advisor, will have accomplished by end of October 2021.
- Refresher training on INTEL Module Alert system by end of September 2021
- Review basement record retention for all CI paperwork or folder will be destroyed and documented, by end of September 2021

2. Management of Investigative Funds

Condition

Investigative funds are included in the annual Police Department budget. These funds are for use in the furtherance of criminal investigations and their use requires supervisor approval. In addition to purchases needed for criminal investigations, the funds are also used to pay confidential informants and purchase illegal drugs as part of drug investigations. The SID captain is responsible for managing the investigation's funds. The captain requests funds from the Police Department Budget Division. Cash funds are then provided to the captain with controls in place to document the transfer of funds. The SID captain maintains the funds in a secure location and maintains a digital ledger on a secure police network drive. The past ledger is saved on an external hard drive that is kept in a secure location.

IFE Ledger Review: Our review of the ledger disclosed that the SID captain issued funds to the organized crime section lieutenant and to the sergeants and detectives which may present a segregation of duties issue. Further, the ledger review disclosed that the investigative fund ledger line entries for expenses did not list the CI INTEL number nor did they document if a contact form was received.

IFE Fund Distribution: All investigative fund expenditures are documented on an investigative fund expenditure form. When funds are issued, a cash advance receipt is provided documenting the amount of money issued. The receipt, along with the associated supporting documentation, are used to balance the Investigative Fund Expenditure (IFE) ledger when the funds and IFE forms are submitted to the captain.

We reviewed a sample of 135 investigative funds transactions including the distribution forms, reports, evidence logs, and other supporting documentation. We found the following issues:

- On four occasions, a Lieutenant who previously held the captain's position, received investigative funds and also distributed the funds back to themselves without an explanation or approval from a superior.
- Out of 27 IFE transactions that required a CI number, 4 did not contain the CI number to identify the informant who received the funds.
- Six IFE transaction forms and the associated reports had inconsistencies that could not be resolved (i.e. missing signatures, different officers or case types).
- Seven IFE transactions were missing receipts.
- In two IFE transactions, it was noted that an even dollar amount was listed on the IFE that was less than the actual dollar amount on the receipt resulting in some coin change. The IFE did not document the lesser amount (i.e. \$58.82) but documented the full amount issued (i.e. \$60.00). This was done to avoid documenting change in the IFE ledger. Several different methods were provided for getting rid of the change from tossing it to putting it in a petty cash fund.

Supervisor's IFE Procedures: Supervisors who distribute investigative funds, also maintain the funds in a safe and maintain a ledger. We reviewed the procedures and

ledgers and found that the ledgers balanced with the funds on hand. However, various styles of ledgers were in use which makes it more challenging to conduct reviews of ledgers and raises concerns related to consistency.

Criteria

In Florida the use of investigative funds is specifically addressed in Florida State statute (FSS) 925.055 which states the following:

- (1) State and local law enforcement agencies which receive investigative and evidence funds from their budgetary authority, or which receive special law enforcement trust funds for complex or protracted investigations shall adopt policies which provide for accountability of the expenditures of such funds.
- (2) The policies of local law enforcement agencies must provide for an annual financial audit to be performed in conformity with generally accepted government accounting principles.

WBPD SOP IV-8 requires a quarterly audit of investigative funds. WPBPD is a member of the commission for Florida Law Enforcement Accreditation which requires several procedures regarding investigative funds to include a quarterly review of funds per standard 5.05M.

Law enforcement management are responsible for implementing policies and procedures regarding the use and control of investigative funds.

Cause

Most of the issues we identified occurred prior to the current captain and appear to be the result of poor management and/or oversight over the SID operations. The issues that were identified under the current captain were either not disclosed to the current captain or had not been considered as potentially problematic.

Effect

A combination of the issues identified above and absent intervention in the form of corrective action, presents a significant risk of inappropriate conduct by officers and/or confidential informants that may go undetected. We note that ultimately investigative funds are taxpayer dollars that should be properly safeguarded and utilized.

There is limited segregation of duties in the distribution of IFE funds. There is a risk that the integrity of the investigative fund may be in question when the captain is distributing funds to line level staff while managing the fund. A similar risk of misappropriation is present when a person in a management position is receiving funds for investigations and distributing the funds back to themselves without oversight.

The lack of all necessary data in the ledger increases the risk of data entry errors and presents difficulties in reconciling the ledger with IFE forms.

Failure to submit a CI contact form, a CI number or inconsistencies in forms and reports increases the risk of officer or CI misconduct.

When receipts are missing, there is a risk that the police department could be spending investigative funds on unapproved or improper purchases. Failure to consistently require receipts when available could lead to officer misconduct.

Although the amount of coin change is not significant it should be properly tracked. There is a risk of small infractions becoming more serious as well as poor public perception regarding the Police Department's handling of funds.

There is the risk that if the supervisors fail to maintain an accurate ledger it could result in an inaccurate balance. Various types of ledgers also increase the complexity of supervisory review of ledgers.

Recommendation 2

The Police Department should ensure that Investigative Funds are properly safeguarded and utilized for valid investigative procedures by:

- a. Developing and implementing a policy stipulating that the SID captain only distributes investigative funds to the OCS and GHOST lieutenants. Any exigent circumstances requiring deviation from this procedure must be documented in a memo to the investigative assistant chief and the memo filed with the IFE records with the investigative assistant chief's approval/signature.
- b. Developing and implementing a policy that prevents an officer in a position such as the captain of SID, from receiving funds and distributing funds back to themselves. Any exigent circumstances requiring deviation should be documented and approved by a higher-ranking officer.
- c. Enforcing policies that require the provision of the CI contact form and CI number and incorporating reviews of the contact forms and CI numbers into the quarterly reviews that are conducted.
- d. Adding fields in the IFE ledger for the officer's name, CI intel number and documenting if a CI contact form was submitted with the IFE for inclusion in the CI file.
- e. Developing and implementing a procedure to ensure receipts are included with IFE's when applicable.
- f. Developing and implementing a policy to conduct periodic quality reviews of IFE transactions and ensure consistency among all supporting documentation.
- g. Developing and implementing a policy and procedure to ensure that all coin change from transactions is accounted for consistently at WPBPD.
- h. Developing and implementing a policy and procedure requiring all WPBPD employees who control and disperse money to use the same ledger format and procedures.

Management Response 2

IFE Ledger Review – In place since the completion of the Audit, the addition of Officer name and CI INTEL number was added to the SID Captains main spreadsheet. To be added by the end of September 2021 will be the same template Ledger for all supervisors to utilize (no more ledger books that each supervisor documents as it works for them). Boxes to be added will be Contact Sheet Attached and INTEL Number documented on Contact Sheet. These box checks will be mandatory “Yes”, this is to ensure no one overlooks this.

IFE Fund Distribution – All issues discussed in this area were corrected when the Captain took over in late October 2019. The additional advice provided by the auditor on the IFE ledger was taken and implemented, as documented in other areas.

A). Done since audit recommendation, October 2020

B). Done since audit – SID Captain only supplies funds to the CID LT, GHOST LT., and OCS LT. This allows the SID Captain to be able to investigate any issues at the Sergeant level or Detective/Agents level, based on the separation utilizing the LT’s to handle issuing funds to the SGT’s.

C). Done since audit recommendation, October 2020

D). Done since audit recommendation, October 2020

E). Completed - all supervisors that manages IFE Funds, were directed that no IFE with an expense will be accepted without a receipt. If there is cause, then a memorandum will be sent to the SID Captain explaining why there is no receipt. This memo will be reviewed and attached to the IFE if acceptable.

F). Will discuss with PD Legal advisor to either add or create additional verbiage to conduct periodic quarterly reviews of IFE, to ensure consistency and documentation.

G). This was again explained to all Sgt’s and Lt’s that rounding up or down on a transaction is not acceptable. Will continue to monitor over the next quarter, these types of transactions to ensure that this has been corrected.

H). As previously stated on this page under IFE Ledger, by end of September 2021, all Supervisors will use a standard Excel Spreadsheet that the SID Captain will create, this will then be mandatory to use moving forward with all IFE ledger information and tracking.

Target Implementation Date:

- Recommendation (E) will have added audit checking from current to the end of December 2021, to ensure that this directive is followed.
- Recommendation (F) will be discussed and looked at with PD Legal Advisor by end of October 2021.
- Recommendation (G) will have added audit checking from current to the end of December 2021, to ensure that this directive is followed.
- Recommendation (H) standardized IFE Ledger used by all supervisors will be in effect by the end of September 2021.

3. Oversight of SID Overtime

Condition

Notification of Overtime: The Police Department utilizes the Telestaff software system to submit overtime requests. Once overtime is entered, the system stores the request in a queue accessible by department supervisors. However, there is no notification directly to the supervisor that one of their employees has submitted an overtime request for review and approval. To review the overtime request, the supervisor must conduct individual name queries in the system.

Data Entry: Once logged into the software, the employee must enter various data into the system such as start time, group, work code, detail code, unit, and notes. We reviewed the data and found data entry errors in the overtime (OT) submissions made by employees in the FY2020 data as noted below.

Standard Operating Procedure	Type of Overtime	Total Instances	Non-Compliant	Compliant	% Compliant
SOP VI.A. All court related overtime must include a defendant's name and case/citation number.	Court	9	5	4	44%
	Work Code OT Detail - Extension Late call	3	3	0	0%
SOP VI.B. When an employee is held over by a supervisor for coverage, the supervisor authorizing overtime needs to be noted.	Held over	15	7	8	53%
	Late arrest/calls: Manpower	18	2	16	89%
SOP VI.B.1. Late arrests or calls must include a case number	Detail code - Quick Response Team	3		3	100%
	Warrants listed in Detail section	225	24	201	89%
SOP VI.B.2. Callouts and SWAT warrants must include a case number.	Warrants listed only in notes section	78	9	69	88%
	Callouts listed in details section	22	17	5	23%
	Callouts listed only in notes section	31	6	25	81%
	Subtotal for Callouts and SWAT Warrants	356	56	300	84%
Totals		404	73	331	82%

The 31 Callouts listed only in the notes section totaled 113.5 hours of Callouts that were not listed or tracked in the details column under Callout which would cause a query of total Callouts to be incorrect.

In the FY2020 overtime data, 127 items were listed as training under the detail code. However, the following training submissions were not listed under training in the detail code section, which would result in an incorrect total of training hours when queried.

- Under the Work code, 3 were listed as mandatory training
- In the notes section, the following 23 submissions were listed as training with no mention of training in the work or detail code sections totaling 72.5 hours of training.
 - 4 Rachel's law training
 - 3 SAO Warrant training
 - 5 CI training
 - 2 training
 - 1 Test/training
 - 2 Training Sergeants
 - 1 UOF training
 - 4 K9 training

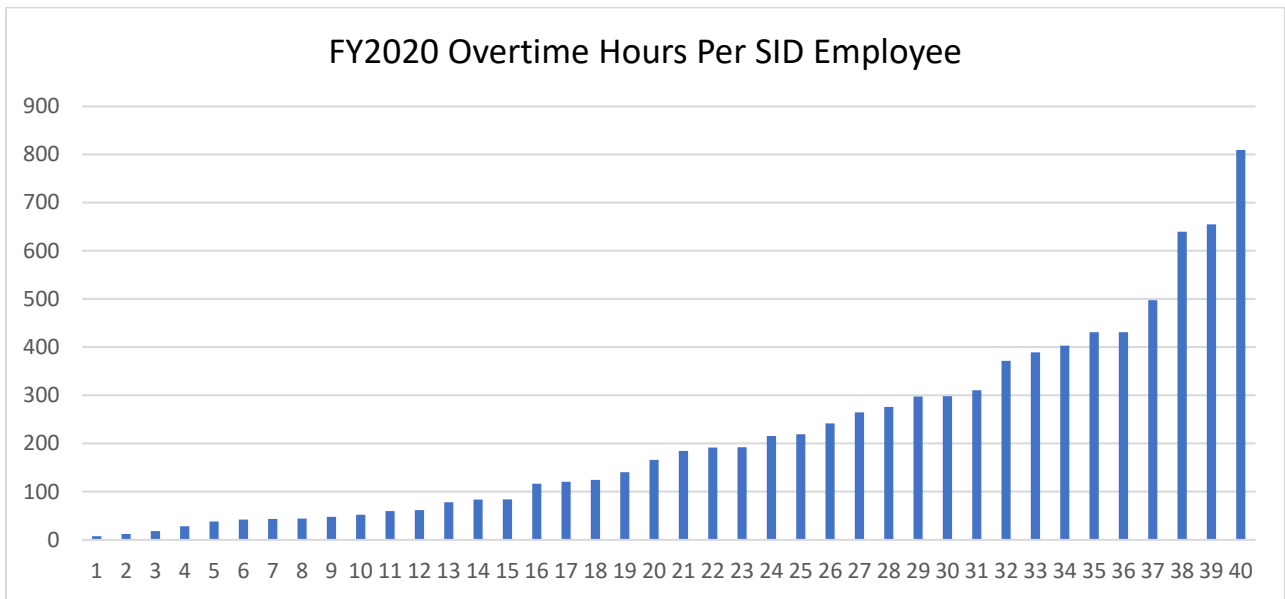
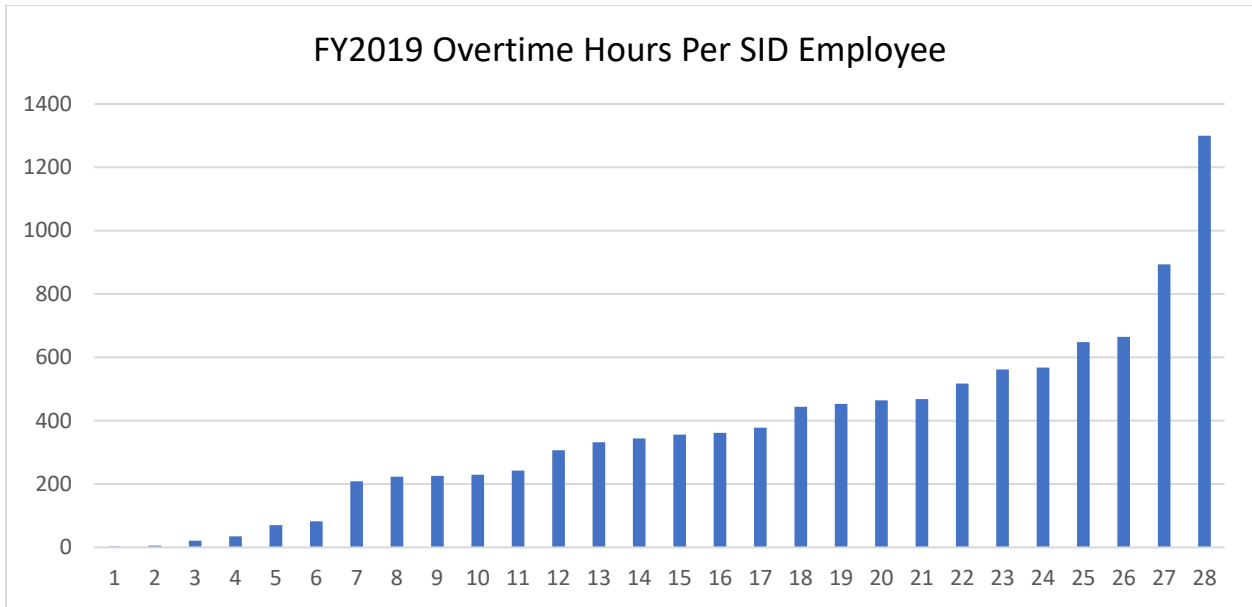
Of the 23 overtime submissions with errors noted above, five were by one employee, two employees had 4 submissions, with the remaining employees with one or two submissions each. This trend was found to be consistent with most of the overtime data.

Overtime Review Process: Currently there is no formalized process for SID command staff to consistently conduct monthly reviews of SID overtime. A review of this nature would provide management an opportunity to increase operational effectiveness and efficiency as well as identify any overtime misuse or abuse.

The Police Department Fiscal Management Division provided the following overtime data from the Telestaff system for all SID overtime for the following dates. The following tables contain SID overtime for the pay periods shown.

Total Overtime Hours	Pay Periods	
	09/23/2018 – 09/21/2019	09/22/2019 – 09/19/2020
Total SID overtime hours	10,405	8,265
Number of SID employees that submitted OT during reporting period	28	40
Average number of SID OT hours per month	867	718.75
Highest number of OT hours employee	1299.5	642.5
Lowest number of OT hours employee	3	7.5
Average annual OT hours per employees that submitted OT	372	206.6
Average OT hours per month per employee that submitted OT	31	17
Note: There were 2,140 hours less of overtime for a 20.57% reduction in overtime hours in FY19/20 as compared to FY18/19 hours. Command staff advised that the reduction was a result of additional staffing in FY19/20.		
Note: Figures do not include extra/off duty work or property/evidence staff since they did not have any OT during the periods under review.		

The charts below contrast the two reporting periods based on the number of hours per employee. In FY2019 there were 28 employees who submitted overtime while in FY2020 there were 40 employees who submitted overtime.



In FY2020, overdose staff expended 394.5 hours of overtime on overdose related cases. Fifteen additional hours of overtime were utilized by other SID staff assisting with overdose related investigations.

Criteria

Management is responsible for designing and implementing appropriate controls for the entity’s operations. This would include taking steps to ensure that only eligible employees are receiving overtime pay and it is properly documented. Internal controls are provided through police department policies and procedures as well as the controls designed as

part of the Telestaff software system. Policy SOP VI provides procedures for the completion of overtime requests in the Telestaff system. Policy SOP II-29 requires prior supervisor approval for overtime before it is worked. Officers may work no more than 16 hours in a 24-hour period without a captain's approval. Once overtime is submitted in the Telestaff system it must again be approved by a supervisor.

Cause

Overtime System Notifications: The current overtime software system does not notify a supervisor of an employee's submission of an overtime request. The supervisor must query the system by each employee's name. Fiscal management advised that they are working on a software update with the vendor to address this issue.

Overtime Data Entry Errors: SID employees are not consistently completing the group, details and notes categories in the software when submitting overtime. Further, employees are not consistently documenting the police report number in cases required by policy in the notes section.

Overtime Review: Command staff is not utilizing a monthly report to consistently review overtime to enhance operational efficiency and effectiveness and identify staffing needs.

Effect

Overtime System Notifications: There is a risk that the system is an inefficient use of the supervisor's time. This process is also more labor intensive for fiscal management and in some cases, it may result in an overtime request not being approved by a supervisor in time to be included in the employee's paycheck.

Overtime Data Entry Errors: There is a risk that the Police Department is unable to properly track overtime expenditures to justify SID activities which could impact the ability of management to a. identify overtime misuse or abuse, b. categorize and identify overtime issues to include training concerns, or c. identify funding opportunities for grants.

Overtime Review: There is a risk that overtime not properly monitored may result in the inefficient use of resources and misuse or abuse of overtime.

Recommendation 3

The Police Department should ensure adequate oversight of Overtime and efficient use of resources by:

- a. Ensuring that SID coordinates with police fiscal management to develop and implement a process to update overtime codes and train SID personnel on the proper use of overtime codes. This should include the development of an online reference document for employees to verify the types of overtime code to be used in various situations. Supervisors should ensure that the proper codes are used.

- b. Ensuring that SID develop and implement procedures for SID command staff to complete and document a monthly review of SID overtime to evaluate effective and efficient use of resources and identify staffing needs.
- c. Assessing the software's capabilities and identifying solutions that can forward overtime requests directly to the requesting employee's supervisor.

Management Response 3

Recommendation 3

- Recommendation A. – Process of developing updated overtime codes to verify and track proper OT coding. This was done prior to the completion of the audit. A narcotic drop down for OCS was changed. Now under OCS OT, there is specific codes for GHOST, OCS, Task Force and other situation tracking within the Division. Also implemented is that All OT that is placed into Tele Staff, will have a case number if available, and all OT will need a Supervisor's name in the comment section of who authorized the OT. (This is not needed if it is a planned warrant, or operation where there is an OPS plan to support the operation and it's known and previously approved.)
- Recommendation B. – SID Command Staff checking OT effective and efficient use has been in place since the completion of the audit. This occurs with the SID Captain, along with the Investigation Bureaus Assistant Chief. There is currently no written directive. The Police Department is developing a department wide procedure to improve analysis of time and attendance.
- Recommendation C. – Refer to response to Internal Auditor's Office Payroll and Overtime Audit. SID will conform to the process developed for the entire Police Department. In reference to the software capabilities and performance, this is managed by the captain that is assigned to Fiscal Services. Suggestions and requests can be made, but capabilities and performance are limited based on licenses and ability. We currently just switched to a new Tele Staff program in September 2021. Unsure of all capabilities. We still also utilize Kronos for timecard approvals.

Target Implementation Date:

October 2021 and just continue to monitor what is currently in place.

4. Reviews of Body Camera Footage

Condition

Searches of individuals and their property is protected under the fourth amendment of the US Constitution. For a consent search, WPBPD policy requires an officer to complete a consent search form and obtain the signature of the person agreeing to the search. WPBPD officers on the GHOST teams are equipped with body worn cameras. WPBPD policy requires officers to activate their body cameras while in contact with citizens. In the case of a consent search, the body camera should be activated during the entire incident, to include conversations and the signature of the consent form.

The review of consent search forms and related body camera video is a valuable tool to ensure no coercion or improper conduct occurs during an event, if fully recorded in compliance with policy. However, we found that there was no clear policy in place for higher ranking officers/supervisors to periodically review body camera videos to ensure consistent compliance with laws and policies. We reviewed body camera videos from consent searches by GHOST team officers to determine compliance with laws. We did not review other divisions that may use body cameras, such as Patrol officers, because that division was not within the scope of our review. As such, our review of the GHOST team determined that their body cameras were activated as required and the searches appeared to be consensual. However, it would be prudent to proactively review body worn camera footage, rather than the current reactive procedure of reviewing footage when there is an allegation of misconduct, a complaint is filed, or other similar instances. These reviews would also serve as a deterrent against potential misconduct because the officers would be aware that the footage may be reviewed by a superior. Further, the reviews may be useful for training.

Criteria

The 4th amendment of US constitution stipulates that an individual is secure in their person and property from unreasonable search by the government. As previously noted, there are various circumstances surrounding this issue. One of those is allowing for the search of a person or their property based on individual consent. WPBPD Policy IV-10 requires officers to complete a consent search form to include the consenting individual's name and signature as well as that of the officer. WPBPD Policy III-20 requires an officer's body camera to be activated when interacting with the public. There are no ongoing internal inspections regarding the review of consent forms with body camera video.

Cause

A clear policy was not in place to address concerns related to 4th Amendment rights as described above. Senior management believed that the current procedures were sufficient and that other entities, such as the State Prosecutor's Office, review the footage when cases arise. However, it may be prudent and demonstrate progressive and proactive policing to implement the reviews.

Effect

There is a risk that officers may deactivate their body camera to obtain a consent search through coercion or improper conduct in violation of the 4th amendment as well as department policy.

Recommendation 4

The Police Department should develop and implement a policy requiring all supervisors to review and document body worn camera videos when consent search forms are completed to ensure consistent compliance with laws and regulations. Initially, this may be accomplished through periodic, random reviews of consent search videos and the results could be utilized for officer training. We recognize that reviewing footage may be time consuming, thus, we recommend additional resources as needed. (Note: The additional resources could have other tasks assigned beyond reviewing the footage which may be more efficient or cost effective.)

Management Response 4

There already is a BWC Policy in place.

- When audited, numerous incidents that was in this category were viewed. No issues were found, all Consent to Search Forms were read and explained by Officer on BWC, form was also signed by all parties and captured on BWC.

Target Implementation Date:

Implementation of this recommendation by PD is dependent upon the allocation of additional resources. In the interim:

- Currently BWC Policy is in place.
- Supervisors also approve reports, part of approval of report, when supervisor sees this documented in the report, it's their responsibility at that time to ensure this was accomplished by policy, prior to approving report.
- In addition to supervisor oversight, there is a complaint process in place where if an officer is alleged to have violated a policy, rule or law and a complaint is generated, an investigation will be conducted to include a review of BWC.
- Any case resulting in arrest is filed with the State Attorney's Office. They also review BWC and determine if case law was followed. Any violation would result in a "no file". This initiates a supervisor review as well.
- Continued monitoring will continue by the Supervisors, with monitoring by Lieutenant and Captain in the Special Investigations Division, to ensure we continue to be compliant.

Auditor's Comment:

- We note that the current policy does not clearly address/require review of BWC footage by a higher-ranking officer.

- The intent of the recommendation is to enhance current procedures and is focused on taking a more proactive role of monitoring and prevention, rather than waiting for a complaint to come in or waiting for a review from the State Attorney's Office.
- An added benefit of implementing this recommendation is the ability to initiate early intervention which may ultimately help to decrease the City's liability exposure.