

# Oakland Police Department Office of Internal Accountability

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## An Inspection of the Management Level Liaison Policy and Procedures

By Mehiya K Thomas and Kristin Burgess-Medeiros

**Oakland Police Department**  
**Office of Internal Accountability**

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## **CITY OF OAKLAND**

### **Memorandum**

**To:** Chief Darren Allison

**From:** Bureau of Risk Management

**Date:** September 7, 2023

**Subject:** **An Inspection of the Management Level Liaison Policy and Procedures**

On January 5, 2023, the Audit Unit of the Office of Internal Accountability initiated an inspection of the Oakland Police Department's Management Level Liaison (MLL) policy and procedures. The inspection was conducted to ensure the MLL was tracking and reporting cases, which were lost, dropped, or dismissed by the Alameda County District Attorney's Office (DAO) due to bad reports, defective search warrants, granted "motions to suppress," contradictory evidence or testimony, or any other indication of performance problems or misconduct, to the Internal Affairs Division (IAD) Commander and submitting monthly reports directly to the members listed in policy.

The scope of this inspection consisted of a review of MLL practices and tracking systems during the audit period of January 1, 2022, to December 31, 2022.

To conduct the audit, OIA interviewed the MLL and requested and reviewed the monthly email correspondence between the MLL and the DAO, Alameda County Public Defender's Office, and Alameda County Court during the audit period. For any correspondence that included a case referral, the OIA confirmed IAD investigated the case. OIA also contacted the points of contact at all three agencies to confirm they were aware of the MLL program.

This inspection is part of OPD's ongoing efforts to self-assess its processes and practices for improvement.

Respectfully,



Deputy Chief Clifford Wong  
Bureau of Risk Management  
Oakland Police Department

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# An Inspection of the Management Level Liaison Policy and Procedures

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## Objectives

1. Determine whether the Management Level Liaison (MLL) is fulfilling the role of liaison.
2. Determine whether the MLL tracked and reported cases, which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted “motions to suppress,” contradictory evidence or testimony, or any other indication of performance problems or misconduct, to the Internal Affairs Division (IAD) Commander and submitted monthly reports which were complete, directly to the members listed in policy.
3. Determine whether the Internal Affairs Division (IAD) investigated all cases reported on the MLL monthly report.

## Findings

### Finding #1

In 2022, the MLL maintained communication with the District Attorney’s Office (DAO) and the Public Defender’s Office (PDO) regarding cases that may involve possible officer performance issues or misconduct. Although the MLL emailed the Alameda County Court on a monthly basis in 2022, there was no communication for nine months from the Supervising Judge, who was designated as the new point of contact in April 2022, acknowledging the email or the MLL program. Therefore, the MLL did not receive confirmation that the Court point of contact was aware of the MLL program stipulations.

### Finding #2

In 2022, the MLL completed all required monthly reports, two of which documented separate case referrals from the DAO and the PDO involving possible officer misconduct. The two reports that included a case referral (March and August) were missing a description of the nature of the incident, which is required by policy.

### Finding #3

The 2022 MLL monthly reports were not submitted to the Chief of Police, as required by policy, but they were submitted to the Assistant Chief of Police and the other report recipients listed in policy. When there was a case referral, IAD was responsible for notifying the subject officer’s chain of command, which is OPD’s current practice.

### Finding #4

In 2022, the MLL reported both cases referred by the DAO and PDO to IAD, and IAD conducted investigations of each case.

## Recommendations

- The OIA recommends the MLL should attempt to confirm acknowledgement of the monthly emails by the new point of contact when there is a change and conduct additional outreach to points of contact that are not responsive to the monthly emails for subsequent months. The Oakland Police Department should revise Department General Order A-18 with updated communication and meeting requirements that better align with the current needs of the program.
- The OIA recommends the MLL ensure that any cases included in the monthly reports include a description of the nature of the incident. Additionally, when the MLL policy is updated, the Department should add records retention requirements to ensure all MLL correspondence and strike lists are retained for a determined period of time.
- The OIA recommends the MLL ensure all monthly reports are submitted to the Chief of Police and Assistant Chief of Police and, upon updating DGO A-18, the Department should update the notification requirements for MLL monthly reports to reflect changes in practice.

## Introduction

On January 5, 2023, the Office of Internal Accountability (OIA) initiated an inspection of the Oakland Police Department's Management-Level Liaison Policy and Procedures. The purpose of Departmental General Order (DGO) A-18, *Management-Level Liaison*, is to establish the position of, and set forth Departmental policy and procedures for, a Management-Level Liaison between the Department, the Alameda County Court, the District Attorney's Office (DAO), and the Public Defender's Office (PDO).<sup>1</sup> DGO A-18 designates the Commander of the Criminal Investigation Division as the Management-Level Liaison (MLL) for the Department. The MLL is responsible for ensuring that cases, which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted "motions to suppress," contradictory evidence or testimony, or any other indication of performance problems or misconduct, are tracked and reported to the Internal Affairs Division (IAD) Commander and the subject officer's unit commander.<sup>2</sup>

For this inspection, the OIA focused on three objectives for the time period of January 1, 2022, to December 31, 2022. First, determine whether the MLL is fulfilling the role of liaison. Second, determine whether the MLL tracked and reported cases, which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted "motions to suppress," contradictory evidence or testimony, or any other indication of performance problems or misconduct, to the Internal Affairs Division (IAD) Commander, and submitted monthly reports which were complete, directly to the members listed in policy. Third, determine whether the Internal Affairs Division (IAD) investigated all cases reported on the MLL monthly report.

## Background

### Prior MLL Audits

#### ***Management-Level Liaison Review, dated June 2016***

The Office of Internal Accountability (OIA)<sup>3</sup> published a review of the Management-Level Liaison program in June 2016. The review focused on determining whether the Management-Level Liaison policy and process provided effective tracking and reporting of criminal cases that are lost, dropped, or dismissed due to bad reports, defective search warrants, granted "motions to suppress," contradictory evidence or testimony, or any other indication of performance problems or misconduct by Oakland Police Department personnel. The time period of review was January 2015 through April 2016.

The OIA found that the Department's Management-Level Liaison tracked and communicated criminal cases not being tried by the Alameda County District Attorney's Office as a result of the possible misconduct by OPD personnel. However, as a general performance measurement tool, broader tracking would provide a more holistic assessment of possible trends in handling cases that do not directly

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<sup>1</sup> Departmental General Order (DGO) A-18, Management-Level Liaison, effective date 16 Dec 03. Pg.1.

<sup>2</sup> DGO A-18, II. A. 1. Pg. 1.

<sup>3</sup> Formerly the Office of Inspector General (OIG)

suggest misconduct by a specific individual, but rather highlight weaknesses within the Department's operational processes. OIA recommended that the Department should consider the feasibility and value of tracking additional dismissed criminal cases, in which OPD was the arresting agency, in an effort to better identify patterns or trends that suggest organizational inefficiencies that prevent the fulfillment of justice; and to report and correct these inefficiencies to the extent that it is within the Department's administrative control.

In response to the recommendation, the Department agreed that broader tracking could further ensure Department personnel are performing their duties per law and policy, yet the Department believed it may prove too administratively burdensome to track all categories given that the strike list<sup>4</sup> does not allow for an efficient method of review (i.e., arresting agency and identifying officer information are not provided) and therefore did not follow OIA's recommendation due to competing priorities and available resources.<sup>5</sup>

Also included in the 2016 review were four policy change recommendations made by the MLL at the time to improve *DGO A-18*. Although the policy has not been revised, the current MLL advised that the Department's practice is to follow the recommended changes to DGO A-18 made by the prior MLL, which were documented in OIA's 2016 review of the MLL program. The recommendations are outlined below.

DGO A-18, Management-Level Liaison Policy Requirements	Management-Level Liaison's Recommended changes to the DGO A-18 Policy (Current Practice)
The MLL shall meet <b>quarterly</b> with representatives of the DAO and the PDO to discuss and/or clarify any information received. If the representatives of the DAO and the PDO are unable or unwilling to meet, the MLL shall prepare and forward a memo regarding the attempt to arrange a meeting and each Office's response to the Chief of Police. <sup>6</sup>	Meeting <b>at the request of</b> representatives from the Alameda County Court, District Attorney's Office and/or the Public Defender's Office, as opposed to scheduled quarterly meetings that in the past have proven ineffective because of inconsistent attendance.
The MLL is responsible for ensuring that cases, which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted "motions to suppress," contradictory evidence or testimony, or any other indication of performance	Removing a redundancy in notifying a subject's unit commander via the MLL's monthly memo because <b>they will be</b>

<sup>4</sup> The District Attorney's Office provides "strike lists" to the MLL who then determines whether a case will advance in review. A strike list contains the names of individuals arrested within Alameda County along with the charges and codes indicating the category of each case's dismissal. The strike list (in 2016 & 2017) did not include the arresting agency (e.g., Berkeley PD, Oakland PD, Emeryville PD, etc.) or any identifying officer information.

<sup>5</sup> *Management-Level Liaison Review of June 2016 Follow-Up Report* dated January 2017. Pg. 5

<sup>6</sup> DGO A-18, II. A. 7. Pg. 2.

problems or misconduct, are tracked and reported to the Internal Affairs Division (IAD) Commander and <b>the subject officer's unit commander.</b> <sup>7</sup>	<b>formally notified by IAD of an administrative investigation.</b>
The MLL shall prepare a monthly report based on the information received from the DAO, the PDO, or the Court and submit the report directly to the Chief of Police, Deputy Chief of the Bureau of Investigation, Office of Inspector General, Internal Affairs Division, and through the chain-of-command, <b>to the unit commander of the subject officer.</b> <sup>8</sup>	
<p>The subject member/employee's commander/manager<sup>9</sup> shall review and evaluate each MLL Monthly Report received and take Division/Unit level action (if the noted performance problems are not a violation of the <i>Manual of Rules</i>) to include:</p> <ul style="list-style-type: none"> <li>a. Counseling;</li> <li>b. Training; and/or</li> <li>c. Placing the member on a Performance Deficiency Notice (PDN).</li> </ul> <p>Document the action in accordance with established policy and procedure.<sup>10</sup></p>	Removing a redundancy in administering corrective action at the division/unit level among commanders and managers because <b>the Department's IAD will determine discipline for sustained administrative cases.</b>

***Management-Level Liaison Review of June 2016 Follow-Up Report, dated January 2017***

The OIA published a follow-up review of the June 2016 Management Level Liaison review in January 2017 and found no officer performance deficiencies or operational issues within a one-year period of review. In the one instance in which a dropped case was labeled under "T3 Admissibility Factors," the MLL followed the appropriate protocol. The OIA also found the Department had begun finalizing a more concise and streamlined policy regarding the Management Level Liaison's role and responsibilities.<sup>11</sup> The OIA recommended the Department should begin tracking dropped cases classified under "T7 – Police Request No Prosecution" as there may be similar potential for operational discrepancies in the handling of criminal cases as those labeled under "T3 Admissibility Factors." OPD adopted the recommendation, and, in practice, tracks dropped cases classified under "T7 – Police Request No Prosecution."

<sup>7</sup> DGO A-18, II. A. 1. Pg. 1.

<sup>8</sup> DGO A-18, III. A. 1-6. Pg. 3.

<sup>9</sup> Subject Officer's Unit Commander

<sup>10</sup> DGO A-18, II. C. 1-3. Pg. 2.

<sup>11</sup> For this review, the Auditor inquired about the status the policy and was informed by the Department's current MLL that it was never implemented.

## Scope and Population/Sample

### Audit Scope

The scope of this inspection consisted of a review of MLL practices and tracking systems during the period of January 1, 2022, to December 31, 2022, to ensure the MLL is fulfilling the role of liaison and taking measures to identify possible misconduct associated with criminal cases which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted “motions to suppress,” contradictory evidence or testimony, or any other indication of performance problems or misconduct. The Auditor reviewed the 2022 MLL monthly reports and, for any reports that included a case referral, the Auditor confirmed the Internal Affairs Division (IAD) investigated the case by checking the Vision system.

### Audit Population/Sample

The Auditor requested and reviewed:

- All MLL monthly reports completed during the audit period of January 1, 2022, to December 31, 2022
- Email correspondence with the DAO, PDO and Alameda County Court during 2022
- A random sample of 68 Alameda County DA’s complaint forms (strike lists).<sup>12</sup>

## References

- Departmental General Order A-18, *Management-Level Liaison*, dated December 16, 2003
- Departmental General Order M-3, *Complaints Against Departmental Personnel*, effective December 22, 2017

## Methodology

See Appendix A for a detailed methodology.

## Findings

### Finding #1

In 2022, the MLL maintained communication with the District Attorney’s Office (DAO) and the Public Defender’s Office (PDO) regarding cases that may involve possible officer performance issues or misconduct. Although the MLL emailed the Alameda County Court on a monthly basis in 2022, there was no communication for nine months from the Supervising Judge, who was designated as the new point of contact in April 2022, acknowledging the email or the MLL program. Therefore, the MLL did not receive confirmation that the Court point of contact was aware of the MLL program stipulations. Per Department General Order A-18, *Management Level Liaison*, the MLL is responsible for ensuring that cases, which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted

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<sup>12</sup> The “strike list” is titled *Superior Court of California County of Alameda, State of California Arrest List (Arraignment) Calendar*.

“motions to suppress,” contradictory evidence or testimony, or any other indication of performance problems or misconduct, are tracked and reported to the Internal Affairs Division (IAD) Commander and the subject officer’s unit commander.

DGO A-18 also designates the MLL as the primary point of contact between the Department, the Alameda County Court, the District Attorney’s Office (DAO), and the Public Defender’s Office (PDO). To fulfil this role, the MLL is required to:

1. Ensure the Alameda County Court, the DAO and the PDO are aware of the stipulations of the MLL policy and understand the responsibilities of the MLL.
2. Meet quarterly with representatives of the DAO and PDO to discuss and clarify any information received.<sup>13</sup>

To determine whether the MLL is fulfilling the role of liaison, the Auditor met with the MLL to understand the process for communicating with the three agencies and requested all MLL related correspondence with the DAO, PDO, and Alameda County Court from January to December 2022. The Auditor also reached out directly to the points of contact at the DAO, PDO and Alameda County Court to confirm their awareness of the MLL program and its functionality.

The MLL provided the Auditor with copies of emails sent to the points of contact at the three agencies each month during 2022: 12 emails to the Assistant District Attorney, 12 to the Assistant Public Defender, and 12 to the Presiding Judge at the Wiley W. Manual/Allen E. Broussard Courthouse Superior Court of Alameda. The MLL emailed these points of contact monthly to inquire about any cases dropped that may involve possible officer performance issues or misconduct.

The DAO responded to 7 of the 12 monthly emails and in all 7 cases, the DAO point of contact stated they were not aware of any cases dropped due to officer performance issues or misconduct cases. The PDO responded to 6 of the 12 monthly emails, with one referring an incident of concern. The referral was contained in email correspondence during April 2022. The PDO referred the issue and the MLL informed the PDO that the matter would be forwarded to the Internal Affairs Division to be investigated. The Alameda County Court point of contact responded to only 1 of the 12 emails (April 2022) and the purpose of the response was to notify the MLL that a different Judge would be the new point of contact. OIA noted that there were no email responses for nine months from the Supervising Judge, who was designated as the new point of contact in April 2022, acknowledging the email or the MLL program. Therefore, the MLL did not receive confirmation that the Court point of contact was aware of the MLL program stipulations.

In early March 2022, the DAO point of contact informed the MLL that a new Assistant District Attorney would be taking over as the point of contact. The MLL was introduced to the new DAO point of contact and followed up with an email explaining the purpose of the program. In early April 2022, the MLL was made aware of the points of contact changing at the PDO and the Alameda County Court. The MLL

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<sup>13</sup> DGO A-18, pgs. 1-2.

emailed the new points of contact to introduce the program and communicate its purpose. In the March 2022 monthly MLL report, the MLL documented that the points of contact had changed at the three agencies, and the MLL had communicated the stipulations of the MLL policy to each point of contact.

On April 19, 2023, OIA emailed the points of contact from the DAO, PDO, and the Alameda County Court to confirm they understood the responsibilities of the MLL and to get feedback about the MLL program. The DAO and the PDO confirmed that they were aware of and understood the MLL program and its purpose. They also confirmed that they receive monthly emails from the MLL inquiring about case referrals. The DAO point of contact stated that they did not refer any cases to OPD for the portion of 2022 in which they were the point of contact. The PDO point of contact confirmed that the office referred one case in 2022 and stated that it would be helpful to know if there were any results. The point of contact at the Alameda County Court notified OIA that they were no longer assigned to criminal court and provided a new contact. The OIA informed the MLL about the change in the Court's point of contact. The MLL acknowledged the change and contacted the Court's new point of contact.

Although Department General Order A-18 requires that the MLL meet quarterly with representatives of the DAO and the PDO to discuss and clarify any information received, quarterly meetings have not been the practice for many years. In OIA's 2016 review of the MLL program, OIA reported the MLL had made recommendations to update the procedures in the written policy (DGO A-18). One recommendation was to meet at the request of representatives from the Alameda County Court, District Attorney's Office, or the Public Defender's Office, as opposed to scheduled quarterly meetings that in the past have proven ineffective because of inconsistent attendance. In OIA's follow-up review in 2017, the OIA found the Department had changed practice to reflect the MLL's recommended changes. Current practice has the MLL meeting at the request of representatives from the Alameda County Court, DAO, or PDO, rather than meeting on a quarterly basis. According to the MLL, no meetings were requested by the DAO, PDO, or the Court to discuss MLL referrals in 2022.

Department General Order A-18 was published in 2003 and there have been no updates to meeting or communication requirements between the MLL and the DAO, PDO, and Alameda County Court. The level of communication between the MLL and the three agencies is dependent on the assigned points of contact at the three agencies and these points of contact change periodically. While quarterly meetings may no longer be necessary, the MLL should attempt to confirm acknowledgement of the monthly emails by the new point of contact when there is a change and conduct additional outreach to points of contact that are not responsive to the monthly emails for subsequent months.

OIA recommends the Department revise Department General Order A-18 with updated communication and meeting requirements that better align with the current needs of the program.

## **Finding #2**

**In 2022, the MLL completed all required monthly reports, two of which documented separate case referrals from the District Attorney's Office and the Public Defender's Office involving possible officer misconduct. The two reports that included a case referral (March and August) were missing a description of the nature of the incident, which is required by policy.**

Department General Order A-18, *Management-Level Liaison*, requires the MLL to prepare a monthly report based on the information received from the DAO, the PDO, or the Court and submit the report to the Chief of Police, Deputy Chief of the Bureau of Investigation, Office of Inspector General, Internal Affairs Division, and through the chain-of-command, to the unit commander of the subject officer. The report shall contain:

1. The OPD Report Number or the Court Docket Number of the case(s) involved.
2. The name and serial number of the officer(s) involved.
3. The nature of the incident.
4. The reporting person and the office/court that brought the matter to the attention of the MLL.
5. A contact person (if different from the person in Part III, A, 4, above) in the respective office/court that has knowledge of the matter that the MLL or investigator may contact for details.
6. An Action Code indicating what advisory recommendation for action or referral was made by the MLL.<sup>14</sup>

To determine if the MLL tracked and reported cases according to policy, the OIA met with the MLL on January 25, 2023. During the meeting, the OIA asked how dropped cases related to potential performance problems or misconduct were tracked and reported to the Internal Affairs Division (IAD).

The MLL takes the following steps:

- Receives and reviews the Alameda County District Attorney's Office daily "strike list"<sup>15</sup> (list of criminal cases with the charging code) to identify any OPD cases that were rejected due to "admissibility factors" (T3) or "police request no prosecution" (T7-K).
- Reviews the Case Evaluation Report<sup>16</sup> module in Vision to search for cases coded as T3 or T7-K.
- Solicits possible referrals from the DAO, PDO, and Alameda County Court on a monthly basis.
- Emails IAD on a monthly basis to confirm if the DAO, PDO, or Alameda County Court made any referrals directly to IAD.
- Creates a monthly report documenting any T3 or T7-K cases and any referred cases.

The Alameda County DAO sends the "strike list" to the MLL each weekday. The strike list notes whether cases were charged or dismissed, and the reason for dismissal. The T3 code indicates the case was

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<sup>14</sup> DGO A-18, III. A. 1-6. Pg. 3

<sup>15</sup> The "strike list" is titled Superior Court of California County of Alameda, State of California Arrest List (Arraignment) Calendar.

<sup>16</sup> The Case Evaluation Report (TF-989) is used as an advisement to an arresting officer as to the disposition of his/her case after being presented to the District Attorney's Office for charging.

dismissed due to questionable consent, execution, ID admissibility, probable cause, or search and seizure. The T7-K code indicates the case was dismissed because the police requested no prosecution. Criminal cases dismissed for these reasons are very rare but could be an indication of possible officer performance issues or misconduct and warrant further review by the Department. The MLL documented in the monthly reports for 2022 that he reviewed the Alameda County District Attorney's Office daily "strike lists" and checked the Case Evaluation Reports in the Vision system for T3 and T7-K cases. No cases with T3 or T7-K charge codes were identified in 2022.

The Auditor reviewed a random sample of 68 daily "strike lists" to check for any cases dismissed with T3 or T7-K charge codes and none were found.<sup>17</sup> The Auditor initially requested 72 strike lists, but the MLL did not have four of them. The four that were missing were for three dates in January 2022 and one in February 2022. Two of the January dates were under the prior MLL and the current MLL did not have copies. The MLL was unsure why he was missing the other two strike lists but stated that he may not have received them from the DAO.

The Auditor reviewed all 12 monthly MLL reports for 2022 and found documentation of two cases referred to the MLL. In early April 2022, the PDO referred a case to the MLL and when the MLL notified IAD about the case, IAD informed the MLL that they had already received the information from the DAO. This case was documented in the March MLL report and in email correspondence with the referring Public Defender. When OIA asked the PDO point of contact how many cases their office referred to the MLL in 2022, they confirmed one case was referred.

In August 2022, the DAO referred a case to the MLL, which was documented in the August MLL report. The DAO point of contact informed OIA that they had not referred any cases to the MLL during their time serving as point of contact. The case referred by the DAO in August 2022 was referred by a District Attorney in the DAO's office but was not the assigned point of contact.

The Auditor also reviewed the data fields in the 2022 monthly MLL Reports to ensure the required information was included. Although the MLL completed a monthly report for each month in 2022, only two included case referrals. For the two reports with a case referral, all the required data was included except the nature of the incident. The involved officers' names and serial numbers were included, along with the date of incident, associated report number, reporting person, and IAD case number. According to the MLL, he did not include details of the incident because the details are documented in the preliminary inquiry that he completes for IAD. He also informed OIA that he briefs his supervisor, the Bureau of Investigations Deputy Chief, when a MLL case is identified.

The nature of the incident about the case being referred is important information to include in the monthly MLL report, as it provides the Chiefs with the type and seriousness of the potential misconduct and whether that misconduct could be criminal in nature. OIA recommends the MLL ensure that any cases included in the monthly reports include a description of the nature of the incident. Additionally, when the MLL policy is updated, the Department should add records retention requirements to ensure all MLL correspondence and strike lists are retained for a determined period of time.

### **Finding #3**

**The 2022 MLL monthly reports were not submitted to the Chief of Police, as required by policy, but they were submitted to the Assistant Chief of Police and the other report recipients listed in policy. When there was a case referral, IAD was responsible for notifying the subject officer's chain of command, which is OPD's current practice.**

Department General Order A-18, *Management-Level Liaison*, requires the MLL to submit the monthly reports to the Chief of Police, Deputy Chief of the Bureau of Investigation, Office of Internal Accountability (formerly the Office of Inspector General), the Internal Affairs Division, and the subject officer's chain of command when there is a case referral. All 12 monthly MLL reports in 2022 were emailed to the Deputy Chief of the Bureau of Investigation, Office of Internal Accountability (formerly the Office of Inspector General), and the Internal Affairs Division. The MLL, however, emailed the reports to the Assistant Chief of Police<sup>18</sup> but did not email the Chief of Police, as required in policy.

In OIA's 2016 review of the MLL program, OIA reported the MLL made recommendations to remove redundancies in written policy (*DGO A-18*). One recommendation was to remove a redundancy in notifying a subject's unit commander via the MLL's monthly memo because they will be formally notified by IAD of an administrative case. In OIA's follow-up review in 2017, the OIA found the Department had changed practice to reflect the MLL's recommended changes, although policy was not updated. Current practice has IAD, rather than the MLL, notifying the subject officer's chain of command of an administrative investigation due to a MLL referral. The notification process is handled according to the Department's complaint policy (*DGO M-03*).<sup>19</sup>

The OIA recommends the MLL ensure all monthly reports are submitted to the Chief of Police and Assistant Chief of Police and, upon updating *DGO A-18*, the Department should update the notification requirements for MLL monthly reports to reflect changes in practice.

### **Finding #4**

**In 2022, the MLL reported both cases referred by the DAO and PDO to IAD, and IAD conducted investigations of each case.**

According to Department General Order A-18, *Management-Level Liaison*, "The Internal Affairs Division (IAD) shall review and evaluate each MLL monthly report received. If information contained in the MLL Monthly Report alleges a violation of the *Manual of Rules*, IAD shall document the action taken in accordance with Departmental General Order M-3."<sup>20</sup>

There were two MLL cases reported to IAD in 2022. One case was reported in the March MLL report, and one was reported in the August MLL report. The Auditor accessed the Vision System and searched for the IAD case numbers documented in the monthly MLL reports for the two referred cases. The

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<sup>18</sup> It should be noted that at the time *DGO A-18* became effective (December 16, 2003), OPD did not have an Assistant Chief of Police position. Nevertheless, the MLL does send the monthly reports to the AC, the second highest position in OPD's chain of command.

<sup>19</sup> *DGO M-03, Complaints Against Departmental Personnel or Procedures*, III.B.2.c.16, "Ensure a CIR [Complaint Investigation Report] is prepared and a copy is forwarded to the subject member or employee, his/her immediate supervisor, and first-level commander."

<sup>20</sup> *DGO A-18*. II.B. Pg.2.

Auditor found that IAD investigated the two cases reported in the monthly MLL reports. The case listed in the March MLL report was opened as an internal investigation by IAD on March 23, 2022 and was closed on December 30, 2022. While the initial case referral involved one officer, the ensuing investigation involved multiple officers and multiple allegations.<sup>21</sup> The case listed in the August MLL report was opened on August 23, 2022, and closed on December 1, 2022. The investigation involved one officer and two allegations.<sup>22</sup>

## Recommendations

<b><u>Finding #1</u></b>  In 2022, the MLL maintained communication with the District Attorney's Office and the Public Defender's Office (regarding cases that may involve possible officer performance issues or misconduct. Although the MLL emailed the Alameda County Court on a monthly basis in 2022, there was no communication for nine months from the Supervising Judge, who was designated as the new point of contact in April 2022, acknowledging the email or the MLL program. Therefore, the MLL did not receive confirmation that the Court point of contact was aware of the MLL program stipulations.	<b><u>Recommendation #1</u></b>  The OIA recommends the MLL attempt to confirm acknowledgement of the monthly emails by the new point of contact when there is a change and conduct additional outreach to points of contact that are not responsive to the monthly emails for subsequent months. The Department should revise Department General Order A-18 with updated communication and meeting requirements that better align with the current needs of the program.
<b><u>Finding #2</u></b>  In 2022, the MLL completed all required monthly reports, two of which documented separate case referrals from the District Attorney's Office and the Public Defender's Office involving possible officer misconduct. The two reports that included a case referral (March and August) were missing a description of the nature of the incident, which is required by policy.	<b><u>Recommendation #2</u></b>  The OIA recommends the MLL ensure that any cases included in the monthly reports include a description of the nature of the incident. Additionally, when the MLL policy is updated, the Department should add records retention requirements to ensure all MLL correspondence and strike lists are retained for a determined period of time.

<sup>21</sup> IAD 21-01, *IAD General Operating Procedures*, defines sustained as "the investigation disclosed a preponderance of evidence to determine that the alleged conduct did occur, and that it was in violation of law and/or Department rules, regulations, or policies."

<sup>22</sup> IAD 21-01, *IAD General Operating Procedures*, defines unfounded as "the investigation disclosed a preponderance of evidence to determine that the alleged conduct did not occur."

<b><u>Finding #3</u></b>  The 2022 MLL monthly reports were not submitted to the Chief of Police, as required by policy, but they were submitted to the Assistant Chief of Police and the other report recipients listed in policy. When there was a case referral, IAD was responsible for notifying the subject officer's chain of command, which is OPD's current practice.	<b><u>Recommendation #3</u></b>  The OIA recommends the MLL ensure all monthly reports are submitted to the Chief of Police and Assistant Chief of Police and, upon the updating DGO A-18, the Department should update the notification requirements for MLL monthly reports to reflect changes in practice.
<b><u>Finding #4</u></b>  In 2022, the MLL reported both cases referred by the DAO and PDO to IAD, and IAD conducted investigations of each case.	<b><u>No Recommendation</u></b>

## Appendix A

### Methodology

#### Objective 1:

**To determine whether the MLL is fulfilling the role of liaison,** the Auditor interviewed the MLL and requested and reviewed the monthly email correspondence between the MLL and the DAO, PDO, and Alameda County Court from January to December 2022. OIA also contacted the points of contact at all three agencies to confirm they were aware of the program.

#### Objective 2:

**To determine whether the Management Level Liaison (MLL) tracked and reported cases, which are lost, dropped, or dismissed due to bad reports, defective search warrants, granted “motions to suppress,” contradictory evidence or testimony, or any other indication of performance problems or misconduct, to the Internal Affairs Division (IAD) Commander and submitted monthly reports which were complete, directly to the members listed in policy, the Auditor did the following:**

#### Tracking

- (1) Interviewed the MLL to determine if and how MLL cases are tracked.
- (2) Requested and reviewed the MLL monthly reports, emails, and a sample of the Alameda County DA’s complaint forms (strike list) from January 1, 2022, to December 31, 2022.
- (3) Confirmed that all relevant dropped case codes (T3 and T7-K) listed on the strike list were also reported on MLL monthly reports.

#### Reporting

- (1) Reviewed the MLL monthly reports to ensure there was a report prepared for the twelve months of 2022.
- (2) Reviewed the MLL monthly reports to ensure the report contains the following completed information fields:
  - a. The OPD Report Number or the Court Docket Number of the case(s) involved.
  - b. The name and serial number of the officer(s) involved.
  - c. The nature of the incident.
  - d. The reporting person and the office/court that brought the matter to the attention of the MLL.
  - e. A contact person (if different from the person in Part III, A, 4, above) in the respective office/court that has knowledge of the matter that the MLL or investigator may contact for details.
  - f. An Action Code indicating what advisory recommendation for action or referral was made by the MLL.
- (3) Reviewed the reports to ensure the reports were forwarded to the following members listed in policy:

- a. The Chief of Police,
- b. Deputy Chief of the Bureau of Investigation,
- c. Office of Inspector General,
- d. Internal Affairs Division, and
- e. Through the chain-of-command, to the unit commander of the subject officer.

**Objective 3:**

**To determine whether the Internal Affairs Division (IAD) investigated all cases reported on the MLL monthly report, the Auditor did the following:**

- (1) Reviewed the Vision system for all cases referred to the MLL.
- (2) Ensured the cases were investigated.
- (3) Ensured there was a finding.