



Assessment of the Office of Professional Responsibility

Report Number: OIG-2022-I-0016

May 2024

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At a Glance:

In accordance with our *Annual Performance Plan Fiscal Year 2022*, the Office of Inspector General (OIG) conducted an assessment of the United States Capitol Police (USCP or Department) Office of Professional Responsibility (OPR).

OIG objectives were to determine if the Department (1) established adequate internal controls and processes for ensuring compliance with Department policies and (2) complied with policies and procedures, laws, regulations, and best practices. The scope of the review included existing policies and procedures related to OPR for Fiscal Year (FY) 2021 through FY 2023.

Overall, the Department established adequate internal controls for ensuring investigations were conducted in a fair and objective manner. However, OPR did not always comply with the Department's policies and procedures regarding documenting complaints on the required form (CP-536), documenting whether it had notified complainants of the disposition of completed cases, and conducting criminal history checks of sworn employees on an annual basis. Additionally, OIG identified an opportunity for improvement related to OPR's Funded Staffing Level (FSL).

Background:

Public Law 109-55, dated August 2, 2005, established the USCP OIG. The law granted OIG the authority to receive and investigate complaints or information from an employee or member of USCP concerning possible existence of an activity constituting violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety, including complaints or information the investigation of which is under the jurisdiction of the OPR. Public Law 109-55 also states, "To the extent that any officer or entity in the Capitol Police prior to the appointment of the first Inspector General under this section carried out any of the duties and responsibilities assigned to the Inspector General under this section, the function of such office or entity shall be transferred to the Office upon the appointment of the first Inspector General under this section."

OIG and OPR are responsible for documenting, registering, and investigating complaints pertaining to Department policies or procedures or that allege misconduct by any employee of the Department. OIG will generally investigate misconduct concerning a sworn employee with the rank of Inspector or above, civilian employees with the grade of CP-14 and above, or civilian employees with the title of Associate Director and above. OPR will also generally investigate misconduct concerning a sworn employee with the rank of Captain or below as well as civilian employees with the rank of CP-13 or below. OIG may, however, determine to investigate a matter not meeting that criteria based on factors such as the nature and magnitude of the offense; requests from the Chief of Police, Capitol Police Board, or Congress; egregious public trust violations; and the importance to accomplishing crucial mission objectives.

OPR reviews allegations of misconduct from internal and external sources. OPR typically

receives allegations through the mail, in person, by telephone, or from OIG. To track and manage the allegation and investigation process, OPR uses a case tracking software program called [REDACTED]. Depending on the nature of the allegation or departmental violations, the Department designates allegations of misconduct as either a Category I or Category II complaint.

Category I complaints are defined as any complaint or allegation containing one or more of the following elements: (1) unnecessary or excessive use of force, (2) false arrest, (3) sexual or racial discrimination, harassment, or breaches of civil rights, and (4) violations of specific criminal statutes. For Category II, the Department defines those complaints as allegations concerning inadequate police services, breaches of rules or regulations, minor policy violations, or any other complaint not listed in Category I. OPR investigates Category I complaints, and Division Commanders have the primary responsibility for investigating Category II complaints. In some instances, OPR may investigate Category II allegations for complaints that, by their nature or scope, are not suitable for investigation at the Division level, or when complaints involve personnel from more than one Division, or when directed by the Chief of Police or Assistant Chiefs of Police.

The Department requires completion of cases involving sworn or civilian employees within 120 days of initiation for Category I allegations. The Department requires completion of cases involving Category II allegations within 60 calendar days of initiation. When a Division receives a case, generally a Category II allegation, it has 20 working days to complete its investigation and submit its Report of Investigation (ROI) to OPR. Both Division Commanders and OPR may request an extension to complete their respective investigations. Completed investigations result in one of the following classifications: sustained, not sustained, exonerated, unfounded, or dismissed. Upon completion of the investigation and before leaving OPR, the Lieutenant and the OPR Commander review each ROI.

As of FY 2023, OPR had 10 full-time employee positions consisting of 1 Commander (Inspector), 1 Lieutenant, 6 Investigators (Sergeants), 1 Program Manager, and 1 Operations Support Assistant. OPR reports directly to the Chief of Police.

Results:

The Department established adequate internal controls for ensuring investigations were conducted in a fair and objective manner but OPR did not always comply with USCP policies and procedures. OPR was in general overall compliance with its documentation responsibilities but did not always comply with Department guidance regarding documenting complaints on the required form (CP-536), documenting whether it had notified complainants of the disposition of completed cases, and conducting criminal history checks of sworn employees on an annual basis. Additionally, OIG identified an opportunity for improvement related to OPR's FSL.

Case File Review

GAO-14-704G, *Standards for Internal Control in the Federal Government*, dated September 2014, states:

Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination. The documentation may appear in management directives, administrative policies, or operating manuals, in either paper or electronic form. Documentation and records are properly managed and maintained.

OIG randomly selected and examined the files for 25 completed OPR cases to determine if OPR completed the investigations properly and complied with applicable guidance. The 25 files we reviewed demonstrated OPR:

- Properly categorized its investigations as Category I or II.
- Completed its Category II investigations within the required 60 days from initiation.
- Completed the ROI within the required 20 days.
- Made investigative extension requests when appropriate.
- Ensured respondents signed the required [REDACTED] prior to questioning.
- Ensured the divisions provided OPR with documentation of the corrective actions taken.
- Completed its Category I investigations within 120 days from initiation.
- Properly referred investigations to the OIG.

However, these OPR case files did not always contain all of the required documentation.

USCP Directive [REDACTED], dated April 17, 2020, defines a Complaint Report (CP-536) as “An administrative report form used to record complaints against Department employees or its policies and/or procedures.” USCP Directive [REDACTED] states complaints should be documented in writing by preparing a CP-536.

OIG found 15 cases which had specific CP-536 documentation missing from the case files. This demonstrates the initial complaint had not been consistently documented on a CP-536 for a non-compliance rate of 60% for this requirement.

The CP-536 Complaint Report is a brief but succinct and valuable two page investigative tool that contains the necessary information for OPR to effectively and efficiently address a complaint at its inception. It contains, among other information, the complainant’s name and contact information, the subject(s) name and identifying information, witness names and contact information, as well as the nature and circumstances leading to the the complaint. Accordingly, a CP-536 should be completed and placed in every OPR case file at the initiation of the investigation.

Additionally, USCP Directive [REDACTED], includes the following guidance for the OPR Commander:

Upon proper factual sufficiency being established and upon final approval from the Chief of Police or designee, notify the complainant of the disposition and that appropriate action will or has been taken, if warranted. Do not discuss specifics regarding any action taken.

However, OIG found twelve case files lacked documentation showing OPR had notified the

complainant of the disposition of the completed case.

The overall OPR documentation compliance rate, aside from the two specific areas discussed above, was approximately 98.34%. This indicates OPR was in general overall compliance with its documentation responsibilities.

Criminal History Checks

Standard Operating Procedure (SOP) [REDACTED], dated March 23, 2020, states:

The Department will conduct criminal history checks on all sworn employees of the USCP. The checks will be conducted on a 3-year alternating cycle, using the first letter of an employee's last name to determine the respective cycle year;

- Year 1: A-G
- Year 2: H-O
- Year 3: P-Z

According to SOP [REDACTED], "These checks are conducted due to the sensitive nature of USCP operations and to ensure conformance with law, including the provisions of the Gun Control Act of 1968 (18 U.S.C. § 922), as amended."

SOP [REDACTED], identifies OPR as being responsible for performing the criminal history checks and requires OPR to "Maintain a file of the printed results of all inquiries in accordance with the Records Management Policy and Procedures and Records Disposition Schedule for the OPR" as well as "Ensure that positive returns revealing any offense committed by a sworn employee of the Department are immediately brought to the attention of the OPR Commander."

OPR acknowledged it did not perform criminal history checks in 2022. Furthermore, OPR stated it believed the checks were performed in 2021 but could not provide documentation of the results. OIG reviewed OPR documentation of criminal history checks from 2020 and confirmed it conducted a total of 618 criminal checks for sworn officers whose last names began with the letter P through letter Z. The 2020 record also listed those names whose criminal history check was positive and confirmed that those cases had been brought to the attention of the OPR commander.

Funded Staffing Level

As of FY 2023, OPR had a FSL of 10 positions consisting of one administrative assistant, six investigators, one program manager, one lieutenant, and one commander. When interviewed in January 2023, an OPR official acknowledged OPR was down two investigators and advised OPR was working to fill these positions. A second OPR official stated OPR had six investigator positions but two of them had been vacant since October 2022. A second OPR official stated they hoped the two positions would be filled soon as the workload on the remaining four investigators was very high.

At the time of this report, OPR continues to have a vacancy for one investigator position. In order for OPR to complete all of its departmental required responsibilities, it is important to be fully staffed.

Conclusions

OPR was in general overall compliance with its documentation responsibilities but we noted certain instances in which documentation was not in the case file and OPR was not consistently performing or maintaining documentation of criminal history checks of sworn employees as required by Department guidance. Additionally, OIG identified an opportunity for improvement related to OPR's FSL. Therefore, OIG makes the following recommendations:

Recommendation 1: We recommend the United States Capitol Police implement controls to ensure a CP-536 is completed by either an employee or supervisor at the initiation of all Office of Professional Responsibility investigations and maintained in the case file.

Recommendation 2: We recommend the United States Capitol Police implement controls to ensure the Office of Professional Responsibility notifies the complainant of the disposition of the completed case and that documentation of notification is maintained in the case file.

Recommendation 3: We recommend the United States Capitol Police Office of Professional Responsibility conduct the criminal history checks necessary to achieve compliance with Standard Operating Procedure [REDACTED], dated March 23, 2020, and maintain documentation of the results.

Recommendation 4: We recommend the United States Capitol Police expeditiously fill its vacant investigator position.

APPENDICES

Objectives, Scope and Methodology

Our objectives were to determine if the Department (1) established adequate internal controls and processes for ensuring compliance with select Department policies and (2) complied with select policies and procedures, laws, regulations, and best practices.

The scope of the review included existing policies and procedures related to OPR for Fiscal Year (FY) 2021 through FY 2023.

To accomplish our objectives, we interviewed USCP officials to gain an understanding of OPR, conducted a review of 25 randomly selected case files of completed investigations, examined the OPR website on PoliceNet, and conducted an onsite of the OPR work space. We also reviewed the following laws, guidance, and industry best practices:

- USCP Directive [REDACTED], dated April 17, 2020
- SOP [REDACTED] dated March 27, 2020
- SOP [REDACTED], dated March 27, 2020
- SOP [REDACTED] dated March 27, 2020
- SOP [REDACTED], dated March 27, 2020
- SOP [REDACTED], dated March 27, 2020
- SOP [REDACTED], dated March 27, 2020
- SOP [REDACTED], dated March 23, 2020
- SOP [REDACTED] dated March 23, 2020
- USCP Directive [REDACTED] dated December 21, 2018
- Directive [REDACTED] dated February 13, 2017
- SOP [REDACTED], dated September 11, 2015

Objectives, Scope and Methodology

- GAO-14-704G, *Standards for Internal Control in the Federal Government*, dated September 2014
- SOP [REDACTED], dated May 24, 2011

We conducted this assessment in Washington, D.C., from September 2022 through December 2023. We did not conduct an audit, the objective of which would be the expression of an opinion on Department programs. Accordingly, we did not express such an opinion. Had we performed additional procedures, other issues might have come to our attention that we would have reported. ~~This report is intended solely for the information and use of the Department, the Capitol Police Board, and the USCP Oversight Committees and should not be used by anyone other than the specified parties.~~

Abbreviations and Acronyms

Chief of Police	Chief
Calendar Year	CY
Fiscal Year	FY
Funded Staffing Level	FSL
Government Accountability Office	GAO
International Association Chiefs of Police	IACP
Office of Inspector General	OIG
Office of Professional Responsibility	OPR
Report of Investigation	ROI
Standard Operating Procedure	SOP
United States Attorneys' Office	USAO
United States Capitol Police	USCP or Department

Recommendations

Recommendation 1: We recommend the United States Capitol Police implement controls to ensure a CP-536 is completed by either an employee or supervisor at the initiation of all Office of Professional Responsibility investigations and maintained in the case file.

Recommendation 2: We recommend the United States Capitol Police implement controls to ensure the Office of Professional Responsibility notifies the complainant of the disposition of the completed case and that documentation of notification is maintained in the case file.

Recommendation 3: We recommend the United States Capitol Police Office of Professional Responsibility conduct the criminal history checks necessary to achieve compliance with Standard Operating Procedure [REDACTED], dated March 23, 2020, and maintain documentation of the results.

Recommendation 4: We recommend the United States Capitol Police expeditiously fill its vacant investigator position.



Department Comments

PHONE: 202-224-9806

UNITED STATES CAPITOL POLICE


OFFICE OF THE CHIEF
119 D STREET, NE
WASHINGTON, DC 20510-7218

April 17, 2024

COP 240758

MEMORANDUM

TO: David T. Harper
Inspector General

FROM: J. Thomas Manger
Chief of Police 

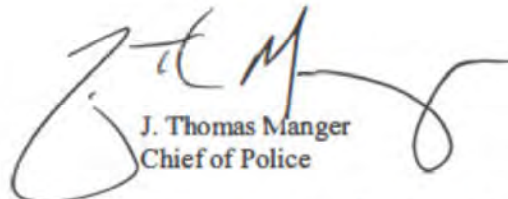
SUBJECT: Response to Office of Inspector General draft report *Assessment of the Office of Professional Responsibility* (Report No. OIG-2022-I-0016)

The purpose of this memorandum is to provide the United States Capitol Police response to the recommendations contained within the Office of Inspector General's (OIG) draft report *Assessment of the Office of Professional Responsibility* (Report No. 2022-I-0016).

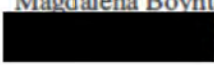
The Department generally agrees with all of the recommendations and appreciates the opportunity to work with the OIG to further improve upon the policies and procedures in place for the Office of Professional Responsibility. The Department will assign Action Plans to appropriate personnel regarding each recommendation in effect in order to achieve long term resolution of these matters.

Thank you for the opportunity to respond to the OIG's draft report. Your continued support of the women and men of the United States Capitol Police is appreciated.

Very respectfully,



J. Thomas Manger
Chief of Police

cc: Ashan M. Benedict, Assistant Chief of Police for Protective & Intelligence Operations
Jason R. Bell, Assistant Chief of Police for Standards and Training Operations
Sean P. Gallagher, Assistant Chief of Police for Uniformed Operations
Magdalena Boynton, Chief Administrative Officer
 Program Manager/Audit Liaison

