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City Manager's Office

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Larry Esquivel
Acting Chief of Police

SUBJECT: UPDATE ON DOCUMENTING
DETENTIONS AND/OR SEARCHES

DATE: June 19, 2013

Approved

Date

6/19/13

INFORMATION

BACKGROUND

This memorandum is being submitted to provide information regarding the status of Duty Manual Policy L5108 - Documenting Detentions during Self-Initiated Pedestrian and/or Vehicle Stops. The Independent Police Auditor (IPA) made several recommendations in the 2011 Year End Report. In order to address three of the recommendations, on January 14, 2013, The Chief of Police issued a memorandum outlining changes to Department policy, regarding the recording of detentions and curb-sitting and actions taken during detentions. The policy changes created unintended consequences that needed to be fully explored prior to implementation. As a result, Acting Chief Esquivel rescinded the policy on January 24, 2013, in order to allow more time to study the issues, conduct outreach and form a more workable policy.

IPA 2011 Recommendations

The IPA made the following recommendations in the IPA 2011 Year End Report:

Recommendation #1: Adopt a curb-sitting policy that requires officers to document in the Computer Aided Dispatch (CAD) or in an incident report when curb-sitting is ordered, the ethnicity/race of those ordered to curb-sit, and the specific reasons for the curb-sitting (e.g., officer safety because the officer was verbally threatened by the suspect, etc.)

Recommendation #19: Require officers to document in the CAD reasonable suspicion for detentions (during vehicle and pedestrian stops) when no incident reports are written.

Recommendation #20: Track in the CAD the race/ethnicity of individuals who are the subjects of pedestrian stops.

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Documenting Detentions And/Or Searches Policy Change

On January 14, 2013, The Office of the Chief issued SJPD Memorandum 13-002, titled, "Duty Manual Addition – L 5108 – Documenting Detentions and/or Searches." This memorandum required officers who were not writing a report associated with a detention or search to document the following information in the event comments field on the Mobile Data Computer (MDC) or advise Communications on the following:

- Identity of person(s) detained and/or searched:
 - The number of persons
 - The name and date of birth of each person
 - The race of each person
- If persons did not provide identification during a contact that evolved into a detention and/or search, the officer would provide:
 - The number of persons contacted
 - Their race
 - Their approximate age
- Type of detention and/or search
 - Detention Types – vehicle stop, pedestrian stop, calls for service, warrant service, etc.
 - Search Types – consent search, probation/parole search, pat-down frisks, vehicle search for weapons, vehicle exception to warrant requirement search, inventory search, community care-taking search, exigent circumstance searches (danger to life, danger to property, escape of the suspect, destruction of evidence), emergency aid searches and other legally authorized searches
- Area searched
- Duration of the detention and/or search
- Persons directed to exit vehicles
- Handcuffing and/or placement of the person(s) detained
- Persons being moved from their current locations
- Demeanor/cooperation of the person(s) being detained and/or searched
- Factual circumstances justifying the detention and/or search

Additionally:

- If information was not provided regarding one of the above listed items, an explanation must be provided as to why the information was not obtained
- In the event of a vehicle stop where no persons were removed from the vehicle and no search was conducted, only the information on the driver was required
- During a consensual encounter which did not result in a detention and/or search the documentation was not required

While the January 2013 policy attempted to address the IPA's audit recommendations, it involved many facets that created challenges for the Department, including: the lack of a coordinated roll-out and training of the new policy; the amount of detail that was going to be

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required on all detentions and/or searches; the added documentation requirements for the officers; the additional time that would be required to obtain all of the information and enter it into the CAD; and the workload on dispatch, including the airtime that officers would be tying up to give all of the required information. Additionally, reduced staffing had resulted in a greater workload for officers and dispatchers and the new policy would require significantly more time on the part of officers who were conducting the detentions or searches. The detention memorandum created frustration for an already overworked workforce and was referred to as the "don't get out of your car memo". In essence, if officers were required to gather and record all of the data, officers may simply stop contacting persons if those contacts could elevate into detentions.

The number of events officers responded to, on-viewed or self-initiated has declined over the past few years: approximately 309,168 events in 2012; 343,576 events in 2011; 387,178 events in 2010; 406,088 events in 2009; and 436,855 events in 2008¹. The arrests for the same years were approximately 19,850 in 2012; 23,556 in 2011; 32,002 in 2010; 33,428 in 2009; and 38,587 in 2008². The decline in the number of events responded to over the past few years, is mainly due to on-viewed or self-initiated events, which is a direct impact of a significantly reduced workforce. While officers write reports in many incidents there are many times that officers make contact and reports are not written. In comparing the number of events responded to with the number of arrests made, it is clear that officers are involved in many more events than those where they arrest persons. Additionally, in the vast majority of events, more than one person is contacted by the officer.

The policy change as proposed in the original January 2013 memo mandated that most of the elements of a normal police report be written in the comments section of the CAD. However, the comments section of the CAD is not intended to be a report writing solution, this area is to note specific short comments to supplement a report. Additionally, data placed in the comments section is a free form field and not searchable unless that specific event is reviewed. To conduct any type of analysis would require every event be reviewed.

The policy mandated far more requirements than the three recommendations the IPA had recommended in the 2011 Year End Report. Additionally, while the curb-sitting complaints are an emerging issue that had not previously been specifically tracked, Citizen Initiated (CI) complaints, specific to arrest/detention allegations, have decreased for the last few years: of the 625 CI allegations in CY 2012, 67 of those were classified as arrest/detention allegations³; of these 67 arrest/detention allegations, there were two allegations received by the SJPD Internal Affairs (IA) Unit in CY 2012 with a narrative of "made me sit on the curb." The Rationale section in the IPA report discusses the three recommendations as follows: Recommendation #1 discussed an incident where four persons were required to sit on a curb for 30-45 minutes and anecdotal reports from individuals, who claimed they were unnecessarily forced to curb-sit

¹ CAD Data: Unduplicated calls for service (same statistical information that was presented to Council Study Session of May 16, 2013)

² CA DOJ MACR: Number of arrest by offense type (same statistical information that was presented to Council Study Session of May 16, 2013)

³ IPA 2012 Year End Report

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following minor traffic and pedestrian stops. Recommendation #19 discussed a complaint where a person was detained during a pedestrian stop and the CAD did not state the reasonable suspicion for the detention. Recommendation #20 discussed that officers are required to capture the race of individuals who are the subjects of vehicle stops but not for individuals who are the subjects of pedestrian stops.

In order to accurately document and search the data recommended in the IPA's report, information should be tracked using a uniformed reporting mechanism, which was not addressed in the January 2013 policy memo.

It was clear the policy needed more vetting, outreach, discussion and end-user training. The organization did not want the policy to create a situation that led to further reducing the capacity for proactive work or "de-policing." On January 24, 2013, Acting Chief Esquivel rescinded the policy in order to take a methodical approach to addressing the IPA's recommendations and balancing the issues facing the organization.

Studying How To Meet The IPA Recommendations

Acting Chief Esquivel and Acting Assistant Chief Garcia met with the IPA, members of the Community Advisory Board (CAB) and La Raza to discuss the issues with the policy and gain clarification on the issues. The Research and Development (R&D) Unit Commander coordinated with various aspects of the organization and discussed balanced options to implement a process to address the IPA recommendations. One of the biggest challenges was how to adequately record the information the IPA was requesting and do it in a manner that was easily understood and deployable by the officers in the field. Two processes came to the forefront: one process was to collect the data through the newly implemented Automated Field Reporting/Records Management System (AFR/RMS). This would be a process by which officers would be mandated to conduct a *Street Check* on every detention they conducted where a report was not generated. Concurrently, staff was looking at a second option to add on to existing vehicle demographic study disposition codes through the CAD system.

An internal working group was convened to study the best way to proceed. The R&D Unit Commander facilitated a working group that included representatives from the Bureau of Field Operations (BFO), Communications, AFR/RMS, Training, technology and command staff, and other aspects of the organization.

There was a lot of discussion about the best way to implement this process and concern focused on trying to capture all of the data that was being sought, as well as the workload on the dispatchers and tying up air time to add additional dispositions to clear vehicle stops and clear every pedestrian stop. A process was created that would add two additional clearance fields for all vehicle and pedestrian stops. After fully vetting both options, it was determined that entry into the CAD by building on the vehicle stop demographic study was the most preferable way to proceed from the end-user perspective.

Solution & Implementation

The new policy will specifically address the issues identified in IPA's report and allow the Department to collect information in a uniformed and consistent manner that is searchable within the CAD system. The roll-out will initially satisfy collecting data per IPA Recommendation #1 by having officers clear vehicle stops and/or pedestrian stops that include what has been termed "limited detentions" (curb-sitting, sat in the back of a patrol car and released or handcuffed and released) where a report is not being written, over the radio and entered into the CAD by dispatchers.

In November 2013, with the updating of the MDC in the patrol vehicles, officers will be able to clear the calls over the air or on their MDCs. After that is accomplished, all vehicle stops and pedestrian stops will be cleared in this manner and the data will be available starting in December 2013, satisfying IPA recommendations #19 and #20.

Phase I – IPA Recommendation #1:

- Vehicle Stops - Officers will clear vehicle stops utilizing the current method of using five clearance fields and will add two additional fields to capture limited detentions.
- Pedestrian/Vehicle Stops - Officers will clear stops in the above listed manner if they utilize a limited detention (curb-sat, handcuffed, placed in the back of a patrol vehicle) when a report is not being written.
- This will be done over the radio and dispatchers will enter the data into the CAD.
- The data captured will apply to all persons subject to a limited detention on all pedestrian/vehicle stops. Clearance fields listed:
 1. Disposition (disposition of the call – 15 dispositions from arrest to unfounded)
 2. Reason for the stop (4 reason types)
 3. Race
 4. Search – Vehicle or Person (searched, not searched, searched no evidence found)
 5. Number of stops/subjects
 6. *Added* - Type of Detention (Curb, Handcuffed, Police Vehicle, None of preceding)
 7. *Added* - Limited Detention Reason (multiple reason types)
- Final disposition to close event

The CAD vendor is not able to schedule the update to the current format of the Vehicle Stop Demographic Study until July 8, 2013. The date milestones for Phase I as follows:

- June 2013 - explain how the system will work to the dispatchers and the patrol pilot teams.
- July 8 to August 5, 2013 - the CAD vendor reconfigures the CAD clearance field tables; technology staff tests and works with vendor to identify and address issues; dispatchers and the patrol pilot teams are trained on the final outcome of clearance fields and conduct the pilot testing; pilot testing is assessed.
- August 5 to August 19, 2013 – training and implementation for BFO personnel.
- August 20, 2013 - reliable data for IPA recommendation #1 is captured.

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Phase II – IPA Recommendation #19 & #20:

- Pedestrian Stops – Officers will clear ALL pedestrian/vehicle stops using the 7 clearance field disposition as stated in Phase I, unless a report is written, over the radio OR over the computers in the patrol vehicles.
- SJPD Technical Staff currently plans to implement an upgrade to the patrol vehicle MDCs in November 2013. Once this upgrade has been completed there will be a phase-in approach.
- All end users/staff will be trained prior to implementation, which may occur in December 2013. The upgrade will include the ability for officers to clear vehicle and pedestrian stops on their MDCs with the new clearance field table, thereby giving officers the option to clear on the radio or on the MDC, which will alleviate the workload on the dispatchers and will not take up the radio “air time” that the initial implementation creates.

Policy implementation is now underway, which includes working with the Computer Aided Dispatch (CAD) vendor to implement an updated tracking mechanism. Full implementation of the new process will allow the Department to address the recommendations in the IPA’s report, efficiently, capturing all pedestrian stop data similar to the Vehicle Stop Demographic Study when no reports are written and report statistics, as necessary.

The Department will continue to reach out to the IPA about this issue and will reengage discussions with La Raza and the Community Advisory Board to discuss and get feedback on the changes prior to implementation of the new policy.

/s/

Larry Esquivel
Acting Chief of Police

For questions please contact Deputy Chief Dave Hober, at (408) 277-5176.