



GOVERNMENT OF THE DISTRICT OF COLUMBIA

POLICE COMPLAINTS BOARD

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PCB POLICY REPORT #17-1: ENSURING MPD POLICIES AND PROCEDURES ARE CURRENT

Summary of Issue:

On April 10, 2015 the PCB released Policy Report #15-1 which addressed concerns with MPD General Order 702.1, Arrest and Bench Warrants.¹ It has been more than a year since that Policy Report was released and no revisions have been made to General Order 702.1. In addition, and of even greater concern, no changes have been made to the General Order since it was put into effect on October 20, 1986.² This general order has been in circulation for over 30 years, with no revisions, despite many technological advances and other changes in that time that have impacted how MPD officers plan and execute warrants, and the policy concerns that were previously brought to attention by the PCB.

General Order 702.1 is not the only general order that appears to have gone without a review for an extended time, as there are others that are just as old if not older and still in circulation. Of the 219 general orders posted publically on the MPD website,³ 118 are more than 10 years old, with 34 of those being more than 30 years old. Further, there are similar issues with the Special Orders, Circulars, Standard Operating Procedures, Bureau/Division Orders, Executive Orders, and Training Bulletins. Compounding the issue of potentially outdated written directives is also the issue of having so many different types of written directives. There are at least seven different types of directives, which creates confusion as vital information is located in several different places, without a reliable means to cross reference the various forms of department guidance. This report examines the issue of standardizing the review of MPD policies and procedures, and ensuring a schedule for them to be reviewed and updated, to benefit both MPD officers and community members.⁴

Policy Discussion:

In the U.S. Department of Justice (DOJ) report on the Baltimore Police Department (BPD), the issue of best practices for effective development of operational policies and procedures was

¹ PCB Policy Report #15-1: Ensuring the Accuracy of Address Information in Warrants Executed by MPD Officers, <http://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Ensuring%20the%20Accuracy%20of%20Address%20Info%20%28Warrants%29%20FINAL.pdf>

² https://go.mpdonline.com/GO/GO_702_01.pdf

³ <http://mpdc.dc.gov/node/423092>, viewed October 28, 2016.

⁴ The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d) (2016), which authorizes the Board to recommend to the District of Columbia Mayor, Council, and the Chiefs of Police of the MPD and the District of Columbia Housing Authority's Office of Public Safety reforms that have the potential to improve the citizen complaint process or reduce the incidence of police misconduct.

examined, as has been done in nearly all of the DOJ investigations into police departments nationwide.⁵ As the DOJ states it, “Clear, comprehensive, and legally accurate policies and training are essential to the proper functioning of a police department.”⁶

The DOJ found that the “BPD’s inadequate polices and training contribute to the Department’s pattern or practice of constitutional violations.”⁷ While we are not suggesting that MPD has a pattern of constitutional violations similar to BPD, we are drawing MPD’s attention to the potential problems that can arise when a police department is not vigilant of its policies and procedures, and does not keep them understandable and current.

The DOJ points to the IACP’s *Best Practices Guide: Developing a Police Department Policy-Procedure Manual* as a guide for widely accepted principles in policy and procedure development. The guide includes in its general principles that “the operations manual should be considered a living document. Routine inspections and reviews should be completed to ensure compliance with its directives so that the manual remains current.”⁸ The guide further explains that all policies and procedures should be reviewed on at least an annual basis to check compliance with current management, operational, and legal standards.⁹ A recent national survey of law enforcement agencies conducted by PowerDMS and the Police Foundation confirms this suggestion, with 90% of the respondents saying that policies should be dynamic and updated constantly.¹⁰

In addition, the *Best Practices Guide* also states that “the manual should be clearly written and easy to use.”¹¹ The guide further explains that there should be a system in place to organize the polices and procedures, to make it easy to identify specific issues.¹² While the recently published General Order 101.00, Directive System¹³, describes all the different types of written guidance for MPD, it also makes it obvious that it is an overly complicated system, as there are at least seven different types of directives. “The point of guiding documents is to clearly identify procedures defining how officers are expected to act. With so much information lurking in various documents, it is unrealistic to think officers are reading, comprehending and retaining all of what they need to do their job correctly.”¹⁴

⁵ See, e.g. Department of Justice, *Report on the Investigation of the New Orleans Police Department*, https://www.justice.gov/sites/default/files/crt/legacy/2011/03/17/nopd_report.pdf at xiii

⁶ Department of Justice, *Investigation of the Baltimore City Police Department*, <https://www.justice.gov/opa/file/883366/download> at 129.

⁷ *Id.*

⁸ Chief W. Dwayne Orrick, *Best Practices Guide: Developing a Police Department Policy-Procedure Manual*, <http://www.theiacp.org/portals/0/pdfs/BP-PolicyProcedures.pdf> at 2.

⁹ *Id.* at 8.

¹⁰ *State of Police in Law Enforcement*, <http://www.powerdms.com/downloads/research/state-of-policy-in-law-enforcement-2016.pdf> at 5.

¹¹ Orrick, at 2.

¹² *Id.*, at 4.

¹³ https://go.mpdconline.com/GO/GO_101_00.pdf

¹⁴ *Developing Constitutional & Effective Policies*, http://www.powerdms.com/downloads/white-paper/developing-constitutional-and-effective-policies-white-paper.pdf?mkt_tok=eyJpLjoiTVdFeU5XTm1OREJsWVdFN5IsInQiOiJ3a0hUeXISV1k1NcUxakVoU0MzN25QQmtYyY1hieXgxWnV1aXVJMXdrcnREXC9uVzRvcGVrVDhpWmsrblwvZnpmNTMyNEFwcHpVQlIU3FqXC83K1RQY0o5K0pZOHFcmUtUVm43S1dtMys0M2hTcz0ifQ%3D%3D at 18.

A recently convened group of law enforcement leaders from across the country discussed the issue of police department policies. The group developed a list of several reasons why policies may be ineffective. Among the items on that list were “too many guiding documents” and “failure to keep policy and procedures relevant by not reviewing them on a regular cycle.”¹⁵ The PCB finds that both of these contributing factors put the MPD at risk of having an ineffective system of providing written policy guidance to its members.

Lastly, having clear, up to date and legally accurate policies and procedures is “the first line of defense against risk” for a police department.¹⁶ Having an effective policy and procedure system, along with proof that officers were adequately trained on it, can be a strong legal defense against agency liability. However, any ambiguity or lack of credibility with the policies and procedures would undermine this defense. At a minimum, law enforcement agencies are obligated to meet the “*Monell* liability standards in areas of policy, training, supervision, investigating misconduct and discipline. The foundation of this principle is to ensure policies provide clear direction to guarantee officers lawfully, effectively and ethically carry out their law enforcement responsibilities.”¹⁷ An effective written guidance system will help protect the District of Columbia, and its taxpayers, from civil liability judgments, in addition to providing clear guidance to MPD members.

Recommendations:

To help improve and facilitate better relations between MPD officers and the community it serves, the PCB, therefore, recommends that MPD take the following actions:

1. Develop a plan to organize and review written directives on a periodic and scheduled basis. PCB suggests that MPD consider reviewing all general orders at least every other year, and making revisions when appropriate to keep them current and accurate. While not every policy will require biennial updates, a formal review process will still ensure that each policy is examined and a conscious decision is made as to whether or not revisions are required. The published policy should then state the last reviewed and/or revised date in the header, so that no policies appear to be untouched for 30 years, as is currently the case with many general orders.
2. Simplify the system for policies and procedures. Currently there are at least seven forms of written directives issued by MPD officials, and no easy way to cross reference between them. The current system can lead to confusion for both officers and the public as to whether or not there is policy guidance on a specific topic. Both MPD officers and the general public should be able to easily understand the system for written directives, and easily locate the directives that relate to a specific topic, no matter which format they may be in.

¹⁵ *Developing Constitutional & Effective Policies*, at 14.

¹⁶ *Id.*, at 13.

¹⁷ *Id.*, at 14; *See also, Monell v. Department of Social Services*, 436 U.S. 658 (1978).

3. Ensure the implementation of an effective policy and procedure system and timely, periodic review through an accreditation process, such as CALEA.¹⁸ Accreditation involves an in-depth review of all policies and procedures, and creates a process for policy review going forward.¹⁹ The *Best Practices Guide: Developing a Police Department Policy-Procedure Manual* highlights CALEA as a source for national best practices in model polices.²⁰ And, the accreditation process “proves an agency’s commitment to setting high standards and achieving operational excellence.”²¹

The PCB suggests that MPD undertake efforts to determine a consistent directives management system that will work to ensure that all policy and procedures are accurate and reviewed on a scheduled and as needed basis. This has been deemed a best practice by multiple authorities, including the Department of Justice, and should be considered a priority by MPD to ensure a properly functioning police department. By doing so, MPD can ensure that officers are aware of the directives in order to be in compliance with them, and easily locate them in a single consolidated format. In addition, an effective written guidance system that is easily accessible, searchable, and available to the public will improve community trust and demonstrate a commitment to “fostering of a culture of innovation and initiative by leveraging technology.”²²

¹⁸ The Commission on Accreditation for Law Enforcement Agencies, Inc., <http://www.calea.org/content/law-enforcement-accreditation-program>.

¹⁹ Accreditation is not the only way to accomplish the goal, however PCB strongly recommends it.

²⁰ Orrick, at 2.

²¹ *Developing Constitutional & Effective Policies*, at 27.

²² MPDC: Mission and Value Statement, <http://mpdc.dc.gov/page/mpdc-mission-and-value-statement>, viewed November 2, 2016.