



U.S. Department of Justice

Civil Rights Division

*Special Litigation Section - PHB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

November 26, 2007

Via Facsimile and U.S. Mail

Mr. Stu Gallaher, Chief of Staff
Office of the Mayor
City of Easton
One South Third Street
Easton, Pennsylvania 18042

Re: Department of Justice Investigation of the Easton
Police Department

Dear Mr. Gallaher:

As you know, the Civil Rights Division of the Department of Justice ("DOJ") has been conducting an investigation of the Easton Police Department ("EPD"), pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. We once again would like to express our appreciation for the cooperation that we have received thus far from the City of Easton ("City") and the EPD. In this letter, we convey recommendations regarding EPD's practices and policies that DOJ has not previously memorialized in our earlier communications.

At the beginning of our investigation, we committed to provide the City (when appropriate) with technical assistance, to ensure compliance with minimal constitutional standards and to enhance EPD's practices and procedures. At the City's request, we reviewed certain policies and procedures and provided our comments in writing.

To date we have reviewed relevant EPD policies and procedures, conducted interviews with City officials and a cross-section of EPD supervisors and patrol officers, and participated in ride-alongs. We have also met with representatives of the Fraternal Order of Police Lodge 19, community leaders, and other EPD citizens.

Important aspects of our fact-gathering process remain outstanding, most notably reviewing documents related to specific use of force incidents. This process is ongoing and we hope to conclude our review shortly. Therefore this letter is not meant to be exhaustive, but rather focuses on recommendations we can provide at this stage of our investigation.

I. EPD Policies and Procedures

A. Content and Organization

Policies and procedures are the primary means by which police departments communicate their standards and expectations to their officers. Accordingly, EPD's policies and procedures need to be current, accessible to all officers, and consistent with relevant legal standards and contemporary police practices. In addition, policies with related topics should accurately cross-reference each other as necessary. Consistent terminology and definitions should be used throughout all EPD documents to avoid confusion and to increase adherence. Finally, EPD should ensure that each policy and procedure is routinely reviewed for consistency.

At the time of our initial tours, EPD policies and procedures were in a binder called the "Black Book," a hodgepodge of policies and procedures, that in many instances had not been updated since the 1980s. With the exception of special orders or unofficial procedural documents that have been distributed over the years, the "Black Book" served as the primary document governing the field services and administrative actions of EPD.

Over the last 20 months EPD has been in the process of updating and developing its policy and procedures manual ("Manual"). We commend the EPD for the effort it has made in this regard. We recognize that the City and EPD may have additional updates to complete before all policies and procedures are reviewed and revised.¹ While we have provided technical assistance on a number of EPD's use of force and force related policies already, there remain a number of other operational policies that we will not review or comment on specifically because they are not related to use of force. Therefore, we make the following recommendations, primarily to assist the City and EPD in the essential task of reviewing, updating, and maintaining its official policies and procedures manual.

¹ We note that at the time of our visits EPD had just started its review and policy revision process.

B. Distribution and Accessibility

As EPD is in the process of revamping and creating a large volume of policies and procedures, it is important that the Department develop an effective dissemination process for rolling out the policies. The roll-out plan can provide the framework to promote maximum comprehension and implementation of new policies and procedures. Distributing all or a large number of policies at one time can be overwhelming for officers and present logistical obstacles for adequate training. However, a clearly articulated dissemination plan, particularly for those policies/procedures which are entirely new or depart significantly from previously approved conduct, tactics, or procedure, is likely to increase officer understanding and adherence. Additionally, to the extent possible, policies and procedures most closely related to each other should be disseminated and trained on simultaneously or sequentially to reinforce the information presented to officers.

The EPD should give officers clear guidance on who is responsible for policy and procedure distribution, when updates and reviews of the Manual are expected, and any role officers or their supervisors have in the process. Failure to have a separate policy that clearly delineates these steps may confuse roles and expectations regarding policy and procedure distribution, and once again result in officers operating from materials that are not current.

In addition, since new or revised policies and procedures are likely to be rolled out over time and not issued as one complete new manual, the EPD should have a systematic way to ensure that these documents are issued to every officer. Not only should EPD officers be provided individual copies of approved policies and procedures, a hard copy set should be available in an easily accessible location within the police station.²

² We understand EPD is utilizing a "Change Sheet" to track replacements or additions to the Manual. The Change Sheet is dated, numbered sequentially, and summarizes the documents or policies and procedures to be added or deleted from the Manual with the issuance of a particular Change Sheet. Officers are then required to sign and verify receipt of the Change Sheet and the corresponding policy or procedure and must retain these documents in the front of their manuals. In addition, the EPD now requires that each manual be inspected semi-annually by the officer's supervisor to ensure that all Change Sheets have been

EPD also periodically issues Special Orders and Memoranda to impart important information and changes in protocol or practices to its officers. During our February and March visits we noticed that these bulletins were posted on a cork board (but not necessarily memorialized in the Manual) outside of the former Captain of Field Services' office. We understand these postings have the force of official policies and procedures. We recommend that EPD require officers to sign a document to verify they have read these posted documents. This practice, or one designed by EPD that achieves the same result, will help the command staff ensure that all officers are aware of, and accountable for, all Special Orders and Memoranda.

C. Policy Development

We recommend that a cross-section of officers (including officers involved in conducting training) have the opportunity to provide feedback on new or revised policies and procedures before they are finalized. We understand that EPD's policy review is ongoing, but, we recommend that now and future such reviews, EPD consider developing a policies and procedures review team to include officers of each rank, shift, and special unit who will work directly with the drafter(s) of any new policy or procedure. Officer input at the earliest stages in policy and procedure development is useful in ensuring consistency in the use of definitions, terminology, and substantive material. Moreover, input from a cross-section of EPD officers and, when necessary, administrative staff, will help ensure buy-in regarding the new and revised policies and procedures; it will also allow patrol officers to provide feedback on the practical viability of proposed procedures.

We have recently learned that EPD has received accreditation through Pennsylvania Law Enforcement Accreditation Commission (PLEAC). This is a commendable accomplishment. We continue to caution the City and the EPD command staff, however, about the limits of any accreditation. While accreditation may result in improved policies, it does not necessarily result in improved practices because it does not ensure policy

inserted since the last inspection, and that the Manual is current. The officer's supervisor is responsible for contacting the accreditation officer to obtain any missing material and for ensuring that the material is inserted into the officer's manual. While we think the process is good, we suggest that supervisors likewise ensure that officers review missing materials after the manual(s) are updated.

implementation. Accordingly, EPD needs a purposeful, well-reasoned plan to continue to promote positive changes in the culture and the practices of the Department.

II. Use of Force

We provided our initial comments and technical assistance regarding the EPD's Use of Force policy (General Order #4-14) in our November 3, 2005 letter. During our February and March 2006 visits we spoke with officers and reviewed additional information related to EPD use of force practices. Below we outline additional concerns regarding EPD's canine deployment, taser use, and use of force reporting not addressed in the above-referenced letter.

A. Canine Deployment

During our interviews with command staff, canine officers, and non-canine patrol officers, we received various and conflicting interpretations about when the use of canine force is authorized under EPD's canine policy.³ For example, some canine officers reported that dogs are deployed to apprehend suspects involved in certain misdemeanors, while other canine officers reported that dogs are only deployed to apprehend those suspects involved in felonies. We were particularly concerned that several command staff, i.e., supervisors charged with authorizing or evaluating the appropriateness of the use of force, were unfamiliar with EPD's current canine policy and procedures.

Additionally, supervisors, canine officers, and non-canine patrol officers could not clearly explain whether EPD policy for canines is "bite-and-hold" (which allows dogs to bite immediately upon locating a subject) or "find-and-bark" (requiring a dog to first bark -- absent immediate danger or the presence of a weapon, and await handler instruction before biting). Some officers indicated that "extenuating circumstances" would determine what actions a dog would take once deployed. However these officers could not clearly articulate what extenuating circumstances would justify use of bite-and-hold versus find-and-bark. In effect, EPD canine officers may be allowing the dog, not the handler to determine when canine use of force is appropriate. Accordingly, there is a substantial risk that someone may be bitten without adequate justification.

³ Although the EPD has a small canine unit, this potentially serious use of force must be carefully managed in order to ensure that it is used appropriately.

Generally accepted police practice for canine use of force calls for the find-and-bark methodology. We recommend that the existing canine policy and all related policies be revised to reflect this methodology. A find-and-bark policy prevents canines from biting subjects in situations in which such force is not necessary to effect an arrest or protect the safety of officers or civilians; for example, where a subject is passively hiding in a building.

We recommend that canine officers, supervisors, and command staff be thoroughly trained and tested on the canine policies and procedures ultimately adopted by EPD. We also recommend that all non-canine officers also be trained on EPD's canine use of force policy. Although such training might be more limited, all officers must have a basic understanding of canine policies and procedures. Failure to have all officers adequately trained on canine policies and procedures may result in expectations of a canine officer or his dog that conflict with the expectations of command staff, supervisors or other non-canine officers, as well as result in a use of force that is unjustified under current legal standards.

B. Taser Use

EPD's taser policy is a subsection of Use of Force, General Order #4-14. We provided feedback regarding taser use in our November 2005 letter. We provide here one additional comment regarding the revised policy EPD submitted for our review in July 2007. While the revised order appropriately provides that only officers who have completed training will be authorized to use a taser, it does not specify which officers or rank of officers will be authorized to carry and deploy tasers, and whether carrying tasers will be mandatory or optional. We recommend that the policy be revised to include these details to ensure that only appropriately trained and authorized officers are using this use of force tool.

C. Use of Force Reporting

When we initiated our investigation, the EPD did not report uses of force on a form dedicated for this purpose. Instead, officers recorded all uses of force, with the exception of canine deployments, in the narrative section of an incident report. These narratives were used to capture every variety of police/citizen contact, making it extremely difficult to extract information to adequately track and analyze uses of force. Recording uses of force in this manner made it difficult also to ensure that cases requiring investigation were identified and

forwarded for review by the appropriate supervisory and command staff. Indeed, unless an officer forwarded his narrative or was directed to do so by supervisory staff, follow up on uses of force would have been virtually impossible.

The EPD has recently created a separate use of force form that includes the type of force used, injuries sustained, and other information that will help supervisors track and review uses of force. However, the new form does not include a section for an officer to describe the facts surrounding an incident or to provide such other information that will assist a supervisor in reviewing the use of force employed by that officer. Accordingly, EPD should consider revising its use of force form to include a space for officer narratives. We have learned recently that the EPD is in the process of implementing a new computer system to enter and store incident reports. Should the EPD choose not to include a narrative section as part of the use of force form, we hope the new computer system will allow for the integration of incident narratives with any related use of force reports.

III. Investigations

As a general matter, supervisory oversight of officers' use of force is critical for a department to ensure that its officers use of force is consistent with departmental standards. It is also important for a department to ensure that its officers are using force in a constitutionally reasonable manner. See Tennessee v. Garner, 471 U.S. 1 (1985).

On June 13, 2006, we forwarded feedback regarding General Order #2-5, Administrative Investigations. Our comments are currently under review by EPD and may result in significant changes to the General Order. Below we provide additional feedback regarding administrative investigations that should be considered in conjunction with those provided in our June letter.

A. Potential Criminal Investigations

At the time of our tour, we learned that EPD lacked appropriate procedures for determining when a matter being investigated administratively becomes, or has the potential to become, a criminal matter.⁴ Having a well-run, independent

⁴ In our June 13, 2006 letter we recommend procedures that should be followed when an administrative investigation uncovers possible criminal conduct. We also advise in this

internal affairs unit/personnel is critical for ensuring that a law enforcement agency is run with integrity (as well as protecting the integrity of its individual officers). Instead, at EPD, the same commander conducts administrative and criminal investigations which compromises the integrity of the criminal investigation. See Garrity v. New Jersey, 385 U.S. 493 (1967)(ruling officers must be adequately apprised of rights against self-incrimination to preserve the integrity of any potential criminal investigations).

Some allegations of misconduct, including citizen complaints, may be sufficiently serious to warrant referral to local or federal prosecutors or other law enforcement agencies.⁵ In revising its policy on administrative investigations, guidance should be provided to EPD command staff and their designee(s) as to which complaints are appropriate for internal review and which complaints should be referred outside the EPD or to a separate unit within EPD for potential criminal investigation.

For example, during our February 2006 visit we learned of an internal investigation of a citizen's complaint alleging use of excessive force by an EPD officer. The citizen alleged possible criminal actions on the part of the involved officer. At the time, since EPD did not have a separate process for investigating administrative and criminal matters, we recommended, based on the nature of the allegation, that the investigation be referred to the District Attorney's office for an independent investigation. However, there was no procedure or policy for making such a referral. The EPD should develop a protocol to determine when any criminal matter involving an officer will be referred to the District Attorney for investigation.⁶ Any such protocol developed should, at a minimum, state what criteria will be

letter that EPD create a policy for conducting criminal investigations, distinct from the Administrative Investigation General Order #2-5 as a part of this general order or in a completely separate policy.

⁵ We note here that EPD's GO #2-5 makes no reference to this possibility.

⁶ We respectfully remind you that matters should be assessed first for potential criminal applicability in order to prevent a compromise of a potential civil case by an administrative review.

considered by the EPD's Chief or his designee(s) to determine if a criminal matter should in fact be referred for outside investigation.

In addition, we recommend that the EPD work with the local District Attorney's office to develop a Memorandum of Understanding ("MOU") between the two agencies to govern how EPD will refer and coordinate. EPD should also consider developing similar MOUs with other law enforcement agencies or outside investigators.

B. Investigation of Citizen Complaints

In our June 2006 letter we emphasized the importance of keeping citizens who file a complaint against an officer apprised of the status of the resulting investigation.⁷ Likewise, we suggested that EPD officers under investigation be routinely informed of the status, unless doing so would compromise the outcome of an investigation. Providing updates to an officer involved in an investigation, when possible, can prevent officer frustration or anxiety that could negatively impact the involved officer(s) job performance. If an investigation is likely to exceed the standard 30-day review period, officers should be provided this information as well. We recommend that investigation updates provided to officers be in writing and maintained as part of the official investigation file for a time period consistent with Pennsylvania law. Similarly, citizens should be apprised of the status of the investigation to reassure the public that a reliable system of accountability exists, and to deter potential officer misconduct.

During our review, we discovered that EPD does not maintain its citizen complaints in an organized and systematic manner. Citizen complaints and the resulting investigatory reports are kept in various files and offices within the Department. We recommend that EPD develop a procedure for maintaining citizen investigations so that this information is readily available to supervisory staff once an investigation is completed.

During the time of our tour, supervisory staff did not periodically review citizen complaints or officers' personnel files for negative policing trends that should be addressed. EPD supervisors should comprehensively review each officers'

⁷ In the June 2006 letter, we provided extensive comments from our police expert regarding the EPD's citizen complaint procedure. Herein we provide supplemental technical assistance.

personnel file including any citizen complaints lodged against an officer at least semiannually. This review should be conducted for the purpose of identifying any patterns of misconduct or inappropriate behavior that should be addressed with an officer through counseling or additional training. Since EPD will review each officer's policy and procedure manual semiannually, supervisors may want to review each officer's personnel file at that time.

Finally, we understand from our investigation that complaints of rude or discourteous conduct by officers toward citizens were often handled informally and without documentation of the complaint or corrective action taken. We recommend that the EPD develop a written policy regarding the handling of such complaints. Such policy should require that any complaints of unprofessional behavior by officers be documented in writing along with any informal resolution. Certainly, while some citizen complaints are more serious than others (e.g., those involving legal violations), and therefore require a more formalized investigation, EPD must ensure uniformity in how all citizen complaints (by severity and category type) are investigated and that any ensuing corrective actions for policy or procedure violations are consistently and fairly imposed without any disparate treatment of a particular type of citizen complaint.

IV. Investigatory Inadequacies/Case Management System

Historically, EPD detectives were a part of one unit. However, in 2004 the detective unit was bifurcated to form the Criminal Investigations Division ("CID") and Vice Units. During our February and March visits we interviewed the CID and Vice lieutenants along with several current and former EPD detectives. We were told the lieutenants of these units are responsible for assigning cases, but detectives are responsible for managing their own case loads.

According to detectives we interviewed, the EPD has no formal policies governing investigative training, evidence collection and storage, victim and witness interviews, or case file documentation and retention. EPD should devise policies and procedures and training specifically to address the above-mentioned areas. According to several detectives, EPD's failure to utilize written policy or procedures in the aforementioned areas has resulted in the loss of evidence and of case files. Moreover, several officers who once worked as detectives informed us that they returned to patrol because they lacked appropriate training, resources, policies, and direction

to perform effectively. Specifically, to ensure investigative integrity, we recommend EPD provide its personnel responsible for investigating crimes with training in investigative techniques; observation and surveillance skills; basic forensics; interviewing and interrogation skills; report writing; basic criminal law; basic evidence rules; and EPD administrative and disciplinary procedures (once they are revised).⁸

Additionally, we recommend that the City consider purchasing a case management system database designed specifically for managing criminal investigations. As we have previously advised, commercial computer networking and data management systems are available to help law enforcement agencies effectively gather, analyze, and use information in criminal investigations. Such systems can automate written reporting functions, help managers supervise detectives and assign cases, improve case-tracking capabilities, and provide an effective tool for creating and using solvability factors. Although finding an appropriate case management system for the EPD may involve a considerable time and cost commitment, we believe that such an investment would prove highly beneficial.⁹

V. Discipline

During our visits, numerous officers reported that officer discipline is often inconsistent and unfair. Many officers complained that discipline meted out often reflected favoritism. Many of these officers cited favoritism and inconsistency in discipline as a leading contributing factor to their decision to exercise the early retirement option or leave the EPD for other employment.¹⁰

⁸ These same recommendations apply to EPD supervisory personnel responsible for investigating officer uses of force.

⁹ During the time of our visits the EPD failed to employ any case solvability factors to help detectives determine if a case is likely to be resolved and therefore should remain a higher priority, or if it is unlikely to be resolved and therefore should be a lower priority.

¹⁰ We are aware that the inclusion of an early retirement option in the officers' 2006 union contract has contributed significantly to EPD's declining numbers. During our February and March visits, we spoke with many officers who had, or were planning to, exercise the early retirement option.

We provided technical assistance regarding the EPD's Discipline General Order #2-6 in our May 2, 2006 letter. The EPD police leadership and the accreditation consultant have reviewed these recommendations and revised these policies.¹¹ We recommend that in addition to developing sound written policies regarding officer discipline, and that EPD command staff and supervisors attend mandatory and routine training that includes instruction on how to effectively administer corrective or disciplinary action (where appropriate) to its officers.

In addition to the technical assistance we offered previously, we recommend that the EPD develop a consistent system to impose discipline. Such a system should identify ranges of appropriate disciplinary action that would look not only to the nature of the infraction, but to other factors, such as prior disciplinary history. A disciplinary system should track all discipline received by an officer as well as the dates of disciplinary action.

VI. Supervision and Management

A. Early Warning/Risk Management System

As discussed during our meetings with the EPD command staff, we recommend that EPD procure an early warning system/risk management program ("EWS") to assist with accountability. EPD should develop an EWS that is appropriate and applicable to its needs and size. Whether paper-based or computer-based, even a simple EWS would provide a useful assessment of each officer as well as the Department. An EWS collects data on individual officers for effective supervision and management of a police department and its personnel. For example, it may track uses of force, citizen complaints, internal investigations, service calls, and other items relevant to an officer's conduct.

We recommend that EPD implement policies and procedures to specify how and what type of data to collect. For example, the EWS should contain information on all investigations and complaints, including non-sustained complaints and complaints prior to final disposition, discipline and other corrective actions, uses of force, arrests and charges, searches and seizures, service calls, training, awards and commendations, sick leave, civil lawsuits, and other items relevant to an officer's

¹¹ Currently, we are in the process of reviewing the updated policies. Any additional suggestions we may have for revising these policies will be provided separately.

conduct. EPD should then use this data regularly and proactively to: (1) promote best professional police practices; (2) improve accountability and management; (3) manage the risk of police misconduct and potential liability; and (4) evaluate and audit the performance of officers and units on a regular basis. We also recommend that EPD require supervisors, including command staff, to review this data for every officer they supervise on a regular, predetermined basis, such as every quarter.

The policy implementing these recommendations should also establish guidelines regarding specific events that will trigger an additional supervisory review, such as a specific number of uses of force or citizen complaints, considered in connection with various factors including peer review, within a discrete period. Once an officer has been selected for this additional review, a report should be prepared that details all use-of-force reports, formal and informal complaints, calls for service, sick leave, counseling reports, civil lawsuits, and commendations pertaining to the officer within the past five years. The officer's immediate supervisor and command staff should then meet to discuss the report and determine if any corrective action is warranted. The supervisor's and command staff's recommendations should then be forwarded to the Chief for his or her timely review and implementation. The effectiveness of the implemented recommendations should be determined by monitoring the officer and drafting written reports on the officer's conduct on a monthly basis. Both the supervisory recommendations and the written monthly report should be included in the officer's personnel file.

We recommend that EPD supervisors evaluating the data utilize peer reviews; analyzing the information contained in the reports by comparing complaints, use-of-force reports, and other pertinent information about a particular officer with similar information from other officers on the same patrol team or shift. In addition, EPD's policy should provide explicit guidance to supervisory officers reviewing reports to ensure that patterns of possible misconduct are identified, analyzed, and addressed properly by command staff. The aim of this process is to give supervisors valuable information that, if received early, could identify, assist and correct potential problem officers before misconduct actually develops.

B. Specialized Units

We noted during our review that some of EPD's specialized units lack clearly-defined missions or purpose. Members of the community policing unit, for example, were not certain of the unit's duties. This uncertainty can lead to mis-allocation of the Department's limited personnel and resources, e.g., personnel assigned to a specialized unit might be better utilized on patrol. Because specialized units are often insular from the rest of the police agency, there is an increased risk of excessive force use, other civil rights violations, and a general lack of accountability. To avoid these potential accountability pitfalls, there must be close screening, training, supervision, and monitoring of such units.

We therefore recommend that all units be provided mission statements and clearly outlined areas of responsibility. These should include goals and performance targets. Moreover, we advise against the creation of new specialized units until command staff has developed written mission statements, goals, duties, and performance targets.

C. Communication

We recommend that the chief conduct regularly-scheduled meetings with the captains, the lieutenants, and the sergeants. This is particularly important in a department that is adopting new policies and trying to implement major reforms. The command staff should routinely be informed of the latest developments in the Department if they are to communicate that information effectively to line officers. Moreover, such meetings are an important opportunity for the chief to gain feedback from his supervisory personnel.

D. Critical Incident Reviews

In addition to routine reviews of all use of force incidents, EPD should ensure that use of deadly force, weapon discharges, high-speed chases and other such critical incidents are reviewed separately by supervisors (not involved in the incident) to ensure that officers are acting in accordance with applicable law and departmental policies. Critical incident reviews may identify both officer training needs and patterns of unauthorized or illegal activity. The information regarding each critical incident should be tracked in an EWS, as discussed above.

We recommend that EPD adopt policies outlining the types of incidents that qualify as critical incidents. Such policies should further specify the protocol for conducting critical incident reviews. At a minimum, shift commanders should respond to the scene of any critical incident, secure the scene, and summon the appropriate investigators and supervisors.

We further recommend that EPD appoint a critical incident review board for each such incident. Such a board would include supervisors and officers who have no involvement in the incident under review. This board would conduct interviews of officers who participated in, supervised, investigated, or witnessed the incident, as well as civilians who witnessed the incident. The board should routinely report its findings to the chief. The report should include findings regarding compliance with the law and departmental policy as well as recommendations for policy changes or training improvements. For all critical incidents, it is important that EPD develop a protocol for when critical incident investigations will be referred to an outside organization or external department for investigation or follow up. Moreover, as with criminal investigations, the EPD should develop an MOU with any external department(s) handling any part of an investigation at the EPD's request.

During our tours we learned the EPD lacks a reporting policy for the reporting and investigation of unintentional discharges of guns by officers and lost or stolen police weapons. Incidents involving unintentional discharges and lost weapons have occurred at EPD, yet the Department had not implemented any policy or procedure to ensure the timely and thorough investigation of these types of incidents. The EPD's list of critical incidents and related reporting and investigation policy and procedures the EPD should include unintentional discharges and lost or stolen officer weapons to ensure that officers and supervisors have clear, unambiguous instructions for reporting such incidents. It should also outline the process for any ensuing investigation.

E. Professionalism

While the vast majority of EPD personnel we encountered were courteous and professional, we observed a number of lapses that undermine a professional police organization.¹² For example,

¹² Our consultants also observed pictures of naked women hanging in the men's locker room. These displays are unprofessional and could be offensive to any employee that works in the Department. It is particularly counterproductive in a

there is little consistency in the uniforms of EPD officers. The fact that officers are allowed to wear different components of their uniforms contributes to the lack of a cohesive atmosphere and to the appearance that supervisors do not enforce the rules.

VII. Training

At the time of our visits, the Department had no annual training and no budget for the provision of such training. Instead, training opportunities were parceled out on an ad hoc basis as officers inform their supervisors about training events they wished to attend. At present, training seems to be guided more by the desires of individual officers than the needs of the Department.¹³ Indeed, we learned that one officer apparently resigned from the accident investigation team because the Department did not offer refresher training.

According to the officers we interviewed, a large proportion of training is still devoted to firearms and canines. Other training in supervisory management and other use of force (e.g., verbal de-escalation techniques) techniques are badly lacking. First, the Department has a large number of new lieutenants and sergeants with limited supervisory training or experience. As the City tries to change the culture of the Department, it will need well-trained leaders who can implement reforms. At the time of promotion, new supervisors should receive training related to their new job duties. Second, the Department has a reputation, even among some of its own officers, for being adversarial and confrontational with suspects and the general public alike. These officers would benefit from training in incident de-escalation.

Similarly, we were told by a senior commander that an officer need not provide his name to a citizen if, in that officer's opinion, the citizen is rude. This practice can only increase the perception of an adversarial relationship between Easton residents and the police. Unless the officer is undercover, there is no reason for him or her to withhold his or her name and badge number. We believe that EPD and the community alike would benefit from training designed to improve officers' ability to work with the public.

department attempting to recruit more female officers.

¹³ Until recently, most of the Department's training hours and resources were allocated to SWAT and canines.

In this regard, Title VI of the Civil Rights Acts requires that recipients of federal funds take reasonable steps to provide meaningful access to limited English proficient communities.¹⁴ As recipients of such funding, and given the City of Easton's growing Hispanic population, the EPD should ensure that some officers are familiar with rudimentary Spanish. In addition, officers would benefit from receiving diversity training.

EPD should appoint a training officer to develop, in conjunction with unit leaders and the command staff, an annual training plan and a training budget. This plan should consider officers' training desires when possible, but its primary focus should be the training needs of the Department. Having a designated training budget would allow the Department to prioritize its needs and allocate its resources accordingly.

Finally, officers assigned to specialized units should immediately receive training related to their new job duties. We interviewed officers who were assigned to units ranging from the detective bureau to community policing without any job-related training. While important skills may be learned on the job, new appointees nonetheless should be trained in the basic responsibilities and techniques of their new assignments.

VIII. The Field Training Officer Program

Well run police agencies have programs, such as a Field Training Officer (FTO), in place to ensure new officers receive post-academy training and mentoring from more experienced officers. Although the EPD has a FTO program in place, at the time of our visit EPD lacked standardized policies or procedures for selecting, training, or evaluating FTOS. The EPD should develop an impartial system to select FTOS, implement a well-designed FTO selection procedure and take measures to assure that FTOS are adequately trained. We recommend that the EPD work with union officials to develop a structured program for recruiting, selecting, training, and evaluating FTOS.

The EPD should formulate specific criteria for the selection of FTOS from the ranks of qualified personnel with the clearly established minimum qualifications. At a minimum, FTOS should have several years of experience as police officers. FTOS should have no adverse disciplinary actions that reflect a lack of

¹⁴ Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (attached here are documents that contain examples of steps that might be taken or considered by EPD).

integrity, use of excessive force or discriminatory behavior, have favorable performance appraisals, and exhibit interpersonal skills consistent with the coach/mentor function of an FTO. Moreover, the EPD should adopt a structured training and evaluation program for FTOs.

In addition, we recommend that the EPD take measures to recruit and retain qualified FTOs, including providing additional incentives to encourage officers to apply to become FTOs. Possible incentives include greater monetary compensation or priority for receiving training on new equipment (such as weapons). We also recommend that EPD appoint its FTOs to serve for a fixed term of approximately two years, renewable at the discretion of the EPD based upon overall satisfactory performance. Likewise, the EPD should develop a mechanism for removing FTOs who fail to perform adequately. We would be happy to provide the EPD with examples of FTO programs that other law enforcement agencies have implemented with success.

IX. Records Management/Technology

A. Accessibility

EPD currently has no system that allows its officers to access critical records and information resources after regular business hours. Unless an officer in the field can contact someone inside the police station, that officer cannot review any case or suspect information stored in EPD's computer network. This limits officers' ability to develop and consult criminal intelligence files, among other resources. Moreover, officers must return to the station to complete reports or update their files. Mobile information technology is increasingly affordable, and we recommend that EPD install mobile computer terminals which are tied into a central resource in all of its patrol cars to allow officers to communicate with one another and access data from police records. In the alternative, EPD dispatchers should be able to provide internal EPD information to officers in the field.

Equally important, officers should be able to record information on field contacts, i.e., information provided by citizens or suspects encountered on patrol. Finally, officers should record the race and gender of all traffic contacts. Such information provides commanders with an important tool to prevent racial profiling and to ensure traffic stops are consistent with EPD policy and constitutional requirements.

B. Data Management

EPD lacks policies governing data collection and records management and retention. Detectives store information in their own hard-copy files or word processing documents rather than a centralized, standardized system. Several officers reported that important evidence had been lost because a former officer kept files strewn all over his office. We recommend that EPD adopt policies specifying the designated system for storing its electronic and paper files. We also recommend the adoption of policies establishing a minimum length of time for the retention of these files/information.

We also understand that patrol officers use a system to log incidents and store information, such as the name of the suspect, the time, and a description of the incident. The use of Metroalert provides some degree of uniformity and automated searching capabilities. However, the Metroalert system is antiquated. EPD is not utilizing all the data fields in Metroalert, and some needed data fields, e.g., officer deployment, simply do not exist in Metroalert. Given its current personnel shortage, this data could be particularly useful to EPD commanders. EPD's data management software should allow command staff to compare, for example, when and where the greatest number of incidents occur with the time and place of officer deployment. That information, in turn, would allow commanders to deploy officers where they are most needed.

X. Personnel

A. Promotions, Testing and Assignments

As noted above, officers at all levels share a concern that promotions and assignments were arbitrary and often appeared to be based on personal favoritism. Our police practices consultants (both former chiefs) were surprised at the frequency at which officers were promoted, demoted, and reassigned in the EPD - creating instability in the command structure. Within the last two years, two line officers with no supervisory experience were made captains, a former captain was demoted to sergeant, and a former chief was demoted to the rank of patrolman and then reappointed as chief. Similarly, the lieutenant in charge of detectives was demoted and reassigned as a line officer in the patrol division, while officers with little or no specialized experience or supervisory experience were promoted and placed in charge of specialized units.

Other than the sergeant's position, EPD does not require testing or minimal rank for promotion, or for assignment to a specialized unit, e.g., the detective division. Likewise, when EPD job postings are advertised they fail to specify minimal job requirements. Historically, officers without any supervisory experience as a sergeant or lieutenant have been promoted from patrol officer to captain. One officer reported asking a supervisor about applying for an open position, and that officer reportedly was told that there was no application process. Without any testing, standards of selection, or objective criteria, however, it is very difficult to determine who is the most or least qualified.

Accordingly, we strongly recommend EPD to adopt a standardized objective process for all promotion decisions and appointment to specialized assignments in EPD. We further recommend that promotions to higher supervisory ranks, i.e., captain and lieutenant, be limited to officers who have previously served, at least some period of time in a lower-ranking supervisory position.

Finally, many officers indicated that colleagues who either lost or were otherwise negligent with their weapon, or who had been charged or convicted of a crime, were promoted to supervisory positions or allowed to continue serving in supervisory positions. EPD needs clear standards of conduct, including ranges of discipline/corrective action available for different types of violations of law or policy. This should include, in particular, guidelines regarding the types of violations that can lead to demotion.

B. Evaluations

An objective system, such as written performance evaluations, for monitoring and evaluating an officers' performance is another important tool for ensuring accountability. EPD currently does not conduct routine, standardized performance evaluations. EPD should conduct evaluations at least once per year. Evaluations should be uniform for each rank and division, and should cover such basic issues as officer productivity, compliance with department policy, training, and community relations. Evaluations should be maintained in the officer's personnel file (for supervisory review) for the duration of his or her career (or as long as allowable under applicable State law).

C. Job Descriptions

Closely related to evaluations, job descriptions give officers reasonable notice of their duties and of a department's expectations. Moreover, the process of writing job descriptions forces commanders to evaluate the priorities of officers, units, and the department itself. Each position within EPD should have a job description, whether the position is patrolman, detective, captain of field services, or chief.

D. Recruiting

We recently learned of EPD's efforts to attract female and minority applicants through television advertisements, and we believe this is a very positive step. City personnel acknowledged during interviews that the Department has far fewer minority and female officers (only one African American and one woman at the time of our visit) than one would expect in a diverse community like Easton. However, the City has not kept track of the race and gender of EPD applicants. This information should be recorded and tracked to determine whether there is a shortage of applicants or, if there is no shortage, where applicants are lost in the hiring process.

We recommend that the Department review all its selection processes, including hiring and promotion. The City also should designate and train an Equal Employment Opportunity ("EEO") officer to ensure compliance with federal anti-discrimination laws and to assist the Department in developing a more diverse personnel roster. The police department in Montgomery, Alabama, for example, was ordered to appoint an EEO officer to remedy longstanding discrimination against minority and female officers. See generally, Jordan v. Wilson, 667 F. Supp. 772 (M.D. Ala. 1987).

XI. Conclusion

We strongly urge EPD to closely review and consider these technical assistance recommendations as it revises its policies and procedures. We hope this letter will assist in our mutual goal of ensuring that EPD provides the best possible police service to the people of Easton. We look forward to continued cooperation toward this goal. Where possible, we would be happy to provide examples of policies and procedures used by other

police departments that might address some of the issues we have raised in this letter.

Sincerely,

/s/ Shanetta Y. Cutlar
Shanetta Y. Cutlar
Chief
Special Litigation Section

Enclosures

cc: William K. Murphy, City Solicitor
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