



**INDEPENDENT POLICE AUDITOR'S FIRST REPORT -
2017**

**Presented to the Honorable City Council
City of Palo Alto**

March 2018

**Prepared by: Michael Gennaco and Stephen Connolly
Independent Police Auditors
for the City of Palo Alto
Michael.Gennaco@oirgroup.com
Stephen.Connolly@oirgroup.com**

I. Introduction

This report addresses materials received by the Independent Police Auditor (“IPA”) for review from the first half of 2017. It covers investigations by the Palo Alto Police Department (“PAPD”) that fall within the scope of our auditing responsibilities and that were completed prior to June 30. There are five in all: one review of a Taser deployment, and four investigations into alleged officer misconduct. As usual, we offer a factual overview of the incident itself, as well as an assessment of the Department’s investigative process and case outcomes. Where relevant, we also include recommendations for the Department on a going-forward basis, based on specific issues arising from the cases themselves.

The year began under new interim leadership for PAPD, in light of the December 2016 retirements of the Chief and Deputy Chief. From our perspective, the transition was a smooth one, and we appreciated the continued access and open communication that we experienced under the interim leadership. This extended to an invitation that we received from the acting Chief to give a presentation in the spring to PAPD sergeants regarding our oversight work and observations gleaned from individual cases. It was a chance to move beyond specific episodes and hopefully have a constructive influence on the Department’s approach; we were grateful for the opportunity and for the respectful reception and incisive questions we experienced in that forum.

In November, the city selected a new Chief after a lengthy search. We look forward to working with him in his new role.

II. Taser Case

Incident # 1:

Factual Overview:

On the date of the incident, Palo Alto officers responded to a call of an in-progress residential burglary. A perimeter was established around the residence and soon thereafter a suspect emerged from the house waving a wooden broom. The suspect ignored officers’ repeated commands to put his hands up, stop, and put down the broom. He walked past several officers and directly toward another officer while continuing to wave the broomstick.

One of the officers behind the suspect delivered a single Taser application to his back, which had no apparent effect on him. Another officer then grabbed the suspect and pulled him to the ground. An on-scene supervisor then punched the suspect once in his midsection in an ineffective attempt to subdue him. Eventually, the officers were able to pin the suspect to the ground, overpower him, and apply handcuffs. The suspect did not sustain any visible injuries,

nor did he complain of pain, but due to the Taser application and his irrational responses to questions asked of him, he was transported to a nearby hospital for evaluation.

Outcome and Analysis:

The comprehensive review of the use of force included a review of the incident reports, radio traffic, and one in-car video that captured almost the entire force incident.¹ The investigation determined that the Taser application occurred after the suspect had ignored several commands to stop and was moving in the direction of a police officer while waving a broom. The investigation concluded that the use of the Taser occurred in an attempt to stop the suspect from continuing his advance on a fellow officer. The investigation further noted that prior to the deployment of the Taser, the officer issued a warning of its impending use. The investigation also observed that as the suspect was exiting from the house, the involved officers had developed a plan and assigned responsibilities amongst themselves to have a diversity of force options available. Specifically, the investigation noted that one officer agreed to assume responsibility for the Taser deployment, while two other officers maintained lethal cover. The investigation concluded that the Taser use was compliant with the Department's Taser use policy.

With regard to the punch delivered by the supervisor, the investigation found that it was applied once the suspect had ignored several commands to stop resisting efforts of the officers to apply handcuffs and was consistent with the Department's use of force policy. The investigation further observed that once the suspect was handcuffed, all Department personnel ceased using force. The investigation noted that, in accordance with PAPD policy, recognizing that a Taser had been used, the field supervisor immediately summoned emergency assistance for the suspect and facilitated a medical evaluation. The investigation further observed that once the investigator arrived on scene, the field supervisor immediately notified him of the nature of the use of force.

To his credit, the investigator consulted with a member of the Department's defensive tactics team who downloaded and reviewed the data generated by the Taser use and prepared a Memorandum of his findings. That information was included in the file. The conclusion reached was that the data showed a single Taser discharge of three seconds, but that no energy was delivered to the suspect due to an incomplete circuit. The investigator surmised that this result might be explained because the probes struck the back of the suspect's bulky jacket. The investigator further noted that the officer who discharged the Taser had completed department approved Taser training less than one year prior to the incident.

We were impressed with the quality and thoroughness of the investigative report and the supporting materials included in the investigative file, including the incident report,

¹ The investigation noted that the sole in-car video that captured the incident was supplemented by other audio components worn by officers; these corroborated that warnings were given to the suspect before the Taser was deployed.

supplemental reports, the report prepared by the incident commander, and the memorandum and data regarding Taser use. We also agree with the evidence-based conclusions reached by the investigator with regard to the uses of force deployed by PAPD officers in this case.

Contrasting conduct of on-scene field supervisors

In this case, at about the time the suspect left the residence, two supervisors responded to the location. Their respective involvement, however, differed considerably in ways that seemed noteworthy to us.

Even prior to his own arrival on scene, the first supervisor was significantly involved in a leadership role: obtaining information from officers and coordinating the setting up of a perimeter to contain any suspects in the residence. The in-car audio recording offers evidence of his calm professionalism in this phase of the response, as he decisively repositioned officers in keeping with tactical best practices. Upon arrival, he eventually positioned his car so that the in-car video could pick up any activity outside of the residence². After the suspect was taken to the ground, the supervisor calmly oversaw the handcuffing process, ensured that the suspect was thoroughly searched, and directed a subsequent search of the residence. The supervisor also performed a neighborhood canvass to potentially identify any civilian witnesses to the incident. In short, the video and audio from the incident portrayed a supervisor who met all relevant responsibilities in a thoughtful, controlled, and effective way.

In contrast, the other on-scene supervisor, initially took a perimeter position to block traffic, and then chose to run to the front of the residence when he saw officers converging on the suspect. He quickly became engaged with the apprehension in a direct and physical way, going “hands on” and grabbing the suspect’s legs, then punching the suspect in an ineffective attempt to gain compliance.

The contrast in the two supervisors’ on-scene participation was noteworthy. Supervisors are trained to manage incidents, direct resources, and to avoid becoming tactically engaged themselves unless doing so is necessary. Here, while one of the supervisors met this expectation in exemplary fashion, the second supervisor performed more like an officer – even though a sufficient number of line-level personnel were available to neutralize the suspect.

Moreover, while we agree that the supervisor’s punch did not run afoul of PAPD policy, the secondary question of whether his use of force option was optimal was not formally addressed. The punch did nothing to overcome the resistance of the suspect and other officers were able to successfully bring him under control without the use of punches. To his credit, in his supplemental report, the supervisor himself acknowledged that his punch was ineffective because of the close quarters in which he was trying to work, surrounded by other officers. In addition to

² As noted above, despite the fact that several PAPD police units were also on scene, the supervisor’s in-car video was the only one that captured the force incident.

determining whether a use of force is consistent with policy, the most effective force reviews also look for learning opportunities in the choices that were made and the preference for other alternatives. The legality and reasonableness of the force are critical questions for accountability. However, non-disciplinary training or counseling also has a constructive value that merits attention.

In this case, except for the supervisory issue identified above, the involved officers performed with efficiency and skill in their handling of the encounter. However, in the materials we received, there was no evidence that a tactical debrief was conducted among those involved. We have focused over the years on the value of critical self-assessment, and certainly consider admirable performance to be as worthy of this process as shortcomings are. To better prepare officers for future challenges, it is incumbent upon police managers to ensure that field operations such as this, with many moving parts, are debriefed to reinforce optimal performance and offer constructive criticism designed to improve future responses.

In addressing this point with the Department during our review, we were told that such an assessment did occur in a process apart from the investigation file we received. It is reassuring to hear that the analysis is taking place. Moreover, – and helpfully for our purposes – the Department has resolved to include documentation of any such responses as part of future packages.

Recommendation: When supervisors are involved in uses of force, PAPD should determine whether the supervisor could have better served the Department's response by performing as a supervisor, especially when other resources are on scene.

Recommendation: PAPD should examine force incidents holistically, not only to determine whether the force was consistent with policy but also to consider the force option's tactical effectiveness and the Department's preference of other available choices.

Recommendation: PAPD should regularly conduct tactical debriefs of use of force incidents to reinforce performance consistent with training and provide feedback designed to improve future responses.

III. Internal Affairs Cases

Case # 1: Illegal Search and Excessive Force

Factual Overview

This matter stemmed from a use of force that originated when an officer responded to a family disturbance call in which a juvenile had been involved in a physical altercation with his older brother. By the time the officer responded, the juvenile's mother had found more than a hundred rounds of ammunition in a backpack belonging to him. The officer took information from the mother and brother and began looking for the juvenile.

The officer came across two other juveniles he knew to be the friends of the subject. The officer detained and searched the juveniles and during the detention, one of the juveniles started video recording the officer with a cell phone. The officer said he was blinded by the light of the phone and attempted to grab the phone. A struggle ensued during which the officer took the juvenile to the ground and handcuffed him. A search of the juveniles was conducted but no weapons were found. The officer released both juveniles without obtaining identification and without notifying their parents.

Shortly after the incident, the officer contacted his supervisor and advised him of the encounter. The supervisor reviewed the Mobile Activated Video (MAV) video from the incident and reported his concerns up the chain of command. After that initial review, the matter was assigned to an outside investigator for investigation.

The investigator found that the officer lacked legal authority to detain, search, or handcuff either of the two juveniles or to search the backpack. The investigator further found that the improper detention led to a physical struggle with one of the juveniles. The investigator found that the force, handcuffing, and search was unreasonable, unlawful and excessive and in violation of PAPD policy.

Outcome and Analysis

The investigation in this matter as to the concerns about the search and use of force was timely, thorough, and objective. The assessment of video evidence, other communications, and interviews was appropriate and the subsequent summary and analysis was cogent and detailed. The conclusion that the officer's actions violated policy was supported by the factual record.

While the most concerning activity involved the illegal detention and excessive force, and was addressed appropriately, there were other potential performance lapses that were discussed in the investigation but not singled out in the analysis. For example, the report noted that despite the search of the two juveniles and use of force against one of them, the officer did not request or obtain any identification of them. PAPD's standard protocols are that in a matter of this nature, an officer would obtain identification of the juveniles, which was not done.

The officer also failed to complete a report of the initial response to the mother's residence until over a month after the incident. PAPD policy requires the completion of timely reports. The delay in this case could also have formed the basis for further disciplinary action.

Finally, one of the backup officers did not activate his MAV video when he responded to the incident. PAPD policy instructs officers to activate the video when responding to such a call. Nonetheless, this issue was not discussed during the investigator's analysis.

It is important that any and all potential violations of policy be addressed – not necessarily as a basis for a stronger consequence, but to ensure that accountability and correction for future

reference are occurring. Here, our understanding from the Department is that the additional above-noted shortcomings were indeed identified and addressed, although we received no documentation to corroborate this. Moreover, to the degree these other issues were addressed, they were done so in the larger context of the remediation and consequence, rather than isolated as “stand-alone” issues. This approach is clearly better than nothing, and accomplishes some of the same goals. But we continue to espouse the clearest possible delineations, especially for purposes of future reference and accountability.

Recommendation: When investigating an incident, all potential violations of policy should be identified, discussed, and resolved.

There was an additional performance issue that was also not addressed in the investigative report. When the officer made the initial call to the mother’s residence, her English proficiency was limited, so the officer had the older brother translate. The older brother, however, was a participant in the family disturbance.

PAPD employs officers that have Spanish speaking proficiency. It is not appropriate to request that witnesses translate for other witnesses unless there are exigent circumstances. Here, it would have been highly preferable to have a Spanish speaking officer respond to serve as a translator. It is not appropriate that witnesses translate for other witnesses unless there are exigent circumstances. PAPD policy says as much:

The use of a [limited English] individual’s bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview [the] individual.

The officer should have been reminded of Department policy and counseled regarding the appropriate way to handle this situation.

Recommendation: When performance and potential policy violations become evident during the investigation, they should be discussed and addressed as part of the Department’s overall intervention.

Case # 2: Complaint re Traffic Stop

Factual Overview:

A female motorist initiated this case by contacting the Department in the aftermath of a traffic stop in a parking lot. Three PAPD officers had been at the lot for some time, dealing with a group of juveniles who had been engaged in minor delinquency, when a witness informed them that a driver had collided with a parked police car. An officer ran over to confront the driver, who ended up complaining about the way she had been treated.

The involved officer's in-car audio and video system recorded a significant amount of the encounter. This gave the Department a basis for moving forward with the investigation, even though the original complainant (who had spoken directly to the Chief) was not responsive to subsequent efforts at contacting her.³

The recordings established that the woman had in fact collided with the car as she was attempting to leave the lot; however, there was no apparent damage. She also maintained that she had not been attempting to leave the scene but was instead looking for an appropriate place to pull over and deal with the issue. The officer, for his part, clearly did not believe her, and was sarcastic and somewhat argumentative in the resulting verbal exchanges.

The situation was made more complicated by the woman's not yet having a California driver's license, though she had been a resident for several months. The officer ultimately cited her for this infraction, and required someone else to come get her from the scene – though he told her he had made the “gracious” decision to refrain from impounding the vehicle.

The investigation determined that the subject officer, though within his rights to cite the driver, had been needlessly condescending and demeaning in his approach to doing so. His conduct was found to have been “discourteous” in violation of the relevant PAPD policy.

Outcome and Analysis:

This was a meticulously analyzed case by the handling supervisor. We agreed with the “sustained” determination, and with the thoughtful explanation that accompanied it. Notably, the involved officer himself seemed at the time of the interview to recognize shortcomings in his own performance. He comes across as humble and introspective, and the discussion gets quite detailed and specific about the problematic aspects of the encounter, and some concrete alternatives that the officer might have tried.

In short, the Department did an effective job of providing constructive review and accountability in conjunction with this incident.

Case # 3: Complaint re Traffic Stop

Factual Overview:

This case began with an email in which an adult female motorist expressed concern about a traffic stop she had recently experienced. The stop, though brief, had bothered her because it

³ The Department's willingness to move forward on its own to address the incident is commendable; we have seen – and been discouraged by – many instances in which agencies use the complainant's unavailability or lack of cooperation as a justification for closing the review with no further action.

was premised on a mistake by the officer: he wrongly believed that she had collided with another car when leaving a parking space and had tried to leave the scene improperly.

The officer's car video system recorded the encounter. It shows him with an accusatory tone at the outset ("Are you drunk now?") that softens a bit as he realizes that her car has no visible damage, and that he may in fact have been wrong. Though he apologizes at the end before allowing her to leave, his approach seemed to her to have been misguided. She also found it disconcerting that he mentioned having her address (from her license) in case there were "any issues" stemming from his intended inspection of the other vehicle.

Based on the video evidence, as well as the officer's own interview (in which he candidly acknowledged shortcomings in his handling of the incident), the Department found that he had violated policy with his demeanor and that the woman's complaint was sustained.

Outcome and Analysis:

We concurred with the Department's finding and found the investigation to be thoughtful, thorough, and effective. The woman's original email to the Department had been noteworthy in its framing of the issue as "not a complaint, but as a teaching moment." Nonetheless, and to its credit, PAPD opened a formal investigation and used it as an opportunity to address and improve officer performance. This is clear in the discussion that occurs in the interview with the subject officer, who is reflective about his actions and has insight into how the whole thing could and should have gone differently.⁴

The investigation memo makes reference to the "8 Step Tactical Approach" to vehicle stops that is taught to PAPD officers and is intended to promote effective communication with the subject driver. It illustrates the way the encounter – while not egregious – deviated from this training in specific ways that might have averted the woman's poor impression. As the memo explains, the problems with the stop had less to do with the mistake, which seems to have been an honest and understandable one, than with an attitude and a line of questioning that was arguably unwarranted even if the officer had been correct about what occurred.

Additionally, the Department noted (as a function of its own review into the evidence) that the officer had also violated policy by failing to put out the requisite radio traffic in connection with the stop. This policy not only promotes accountability (by creating a record of the contact) but also has an important officer safety function – it helps ensure that someone knows of an officer's

⁴ While the interview was appropriately comprehensive and also constructive, we note here that the officer indicates that he reviewed the in-car video of the stop prior to being questioned. We have covered our concerns with this practice in several prior reports. And we take this opportunity to repeat our hope that the Department will re-visit this matter and adopt a "question first" protocol when an officer's conduct is the subject of an administrative review.

whereabouts and circumstances should the need for additional assistance arise. It was appropriate and effective to add the issue to the investigation.⁵

It was also significant that the involved officer mentioned during his interview that, soon after becoming aware of the complaint, he had offered to contact the woman and apologize for his handling of the stop. His supervisors discouraged this because of the pendency of the investigation, a decision that we understand. However, two things about this seem worthy of attention: the officer's admirable recognition of fault, and the potential benefits of an apology as a concrete and constructive response to a legitimate citizen complaint such as this one.

Our understanding is that the complainant had already spoken about the incident with other Department representatives whom she knew personally, and was satisfied with how the matter was handled. This obviated the need for additional contact. However, we encourage the Department to consider utilizing this approach in applicable future situations; we have seen "alternatives to discipline" work well in other agencies.⁶ Insofar as an officer's outreach to the affected party has the potential to be much more meaningful and constructive than a minor internal reprimand, PAPD should consider it as a possibility.

Recommendation: In appropriate cases, the Department should make an involved officer's apology (or similar effort at repairing harm) a component of the response to misconduct.

PAPD and "Early Intervention":

This case constituted the second investigation of its kind for the involved officer. He was also the subject of another complaint that involved the nature of his communication with someone he was detaining.

Our impression is that, beyond addressing the relevant conduct concerns through the discipline process, the Department seemed appropriately attuned to the broader issues prompted by this small spike in problematic activity. The Department made an effort to intervene in ways that were focused on enhancing the effectiveness of the officer's future encounters with the public. This emphasis on future improvement is an important compliment to the accountability.

The process of issue-spotting and intervention seemed to happen somewhat organically here, which is a tribute to the thoughtfulness of involved PAPD personnel. It is also, perhaps, an advantage of a smaller agency – it's harder for an officer to "slip through the cracks" and for patterns and trends to go unnoticed.

⁵This is in comparison to the "missing" violations noted in Case # 1, above, and reflects the very approach we advocate.

⁶ We are pleased to note our understanding that the Chief is amenable to this concept, and Department executives assured us that they would have been open to the additional outreach in this case were it not for the communication that had already occurred.

That said, we were glad to learn as a result of this case that the Department also tracks officer activity in collective ways, using a database that captures a range of incidents and events and allows for easy cumulative analysis. The goal of such programs, which have expanded throughout law enforcement in the last two decades, is to assess whether and what kind of a managerial response – apart from discipline – might benefit officers whose “risk-related” behavior (such as complaints, traffic collisions, uses of force, and even absences) exceeds those of colleagues.

Our understanding is that, in the PAPD version, the relevant software produces alerts that are checked and acted upon by a designated supervisor each week, who can then bring potential issues to the attention of the command staff. The early flagging of patterns or clusters of conduct is a useful tool for pro-active intervention, and we are glad PAPD is taking advantage of this capability.

Case # 4: Issues with Arrest

Factual Overview:

This case involved the “obstruction of justice” arrest of two individuals who were bothered by the arrest of a friend of theirs for public drunkenness. The legitimacy of the arrest, and the appropriateness of related conduct by the involved officer, was called into question by PAPD supervisors who were reviewing the incident. The actions of the handling sergeant – including his approval of the report on the night of the arrest and his choice not to promptly notify his own supervisor about concerns – also became part of the misconduct investigation.

Two different PAPD officers had responded to the original call for service from a laundromat where several people were congregated, including two females. During the initial response and investigation, the suspect was detained in the parking lot and the other individuals engaged with the officers in questioning what was happening. This created a certain amount of low-level contention, and at one point the backup officer shone a patrol car spotlight in the face of one of the friends in an effort to move him away. When one of them asked that officer for his badge number, he said no. This led to further antagonism, and the observers began taking cell phone photographs or videos of the patrol vehicle which held the suspect.

After approximately a half hour at the scene, the first officer left in his car with the suspect. The second officer quickly moved toward his own car, cautioning the observers to get out of his path as they sought to use their phones to record or photograph the license plate. Soon after he began to pull forward, he stopped abruptly, left his vehicle, and shoved one of the men who was closest to the path of his car. He then called for “code three” (emergency) backup and ended up arresting two of the subjects for obstructing him in the performance of his duties.

Along with other officers, a supervisor eventually responded to the scene. The arresting officer had the “obstruction” suspects in the back of his car, and other bystanders still remained in the

area. Meanwhile, one of the women in the parking lot – a relative of the “drunk in public” suspect had experienced a physical reaction that prompted the summoning of an ambulance.⁷ The supervisor spoke with the arresting officer and heard his initial account; that officer then left with the suspects, approximately 10 minutes after taking them into custody.

Several hours later, and near the end of their collective shift, the sergeant reviewed the first draft of the officer’s report, asked for further detail, and then approved the second version. One of his last activities was to watch the in-car video of the incident. At that point, the sergeant was concerned about the officer’s handling of the event – but did not yet believe it constituted a major problem. Accordingly, he decided to wait until he returned to work before re-examining the video and determining what steps should be taken.

Before that could happen, though, a supervising lieutenant arrived at work the next morning, noted the “obstruction of justice” arrest, and decided to learn more about it.⁸ After watching the video himself, he was concerned about the way the officer had handled himself and interacted with the bystanders – up to and concluding having doubts about the legitimacy of the arrest. He also had questions as to why the sergeant had neglected to notify him about the incident, given the instructions he believed he had established about wanting prompt information in such situations. The lieutenant contacted his own supervisor, and the investigation was initiated soon thereafter.

Meanwhile, the District Attorney’s Office reviewed the case and decided that it did not wish to pursue the criminal charges against the men. The prosecutor’s attendant notes describe the interference as “minimal at best.”

The review focused on several issues, including specific policies about providing identification when asked by the public, discourtesy, and the more serious “exceeding police powers by unreasonable, unlawful, or excessive conduct.” The adequacy of the sergeant’s response – both in dealing with the officer and in communicating up the chain of command – was also investigated.

The Internal Affairs case was handled by an outside investigator hired by the Department who relied on recordings from the incident as well as documentation and interviews with the involved PAPD personnel. Ultimately, the Department determined that both the officer and the sergeant had violated policy.

⁷ There was some dispute as to the legitimacy of the woman’s ailment; police personnel had the sense that she was dramatizing her condition as part of the antagonism

⁸ These arrests are based inherently on adversarial interactions between the police and the suspects, and therefore tend to prompt heightened supervisory interest.

Per the investigation, the officer's choice not to comply with the request for his badge number, his disrespectful commentary and demeanor, and the overreaction to the mild provocation and "threat" posed by the friends of the drunken arrestee all constituted policy violations warranting discipline. As for the sergeant, his initial concerns about the incident and his related interventions were found to be a reasonable start that was superseded by the lieutenant's involvement. However, the investigation did find fault with the sergeant's hesitation in notifying his lieutenant, particularly in light of the lieutenant's clear directions regarding preferred protocol.

Outcome and Analysis:

This is an incident that merited a firm response, and we concur with the Department's findings in the aftermath of a careful and detailed investigation.

Clearly, the officer's frustration over a perceived lack of cooperation and respect was building over the course of the encounter outside the laundromat. Eventually, those feelings devolved into discourtesy, sarcasm, and finally an elevated and disproportional response to a relatively mild provocation. The officer's act of shoving one of the men exemplifies this. While not egregious, the push did not appear to be necessary or controlled as a way of removing the men from the path of his vehicle.

Moreover, the "obstruction" created by the actions of the arrested parties seemed technical at best. The small group of people was unhappy about the drunkenness arrest, and their presence undoubtedly created an undercurrent of tension that complicated the situation for the officers. Tellingly, though, the first officer felt the friction level was mild enough to leave his partner behind and begin to drive away with the suspect. The effort to record identifying information about the police cars did apparently put the friends in the path of the radio car, as reflected in the car video evidence. This was, however, brief and far from menacing – to say nothing of the fact that it was predicated in part on the officer's own refusal to provide identification as required by policy.

The investigative report includes a detailed and thorough analysis of the officer's actions, and finds fault appropriately with the demeanor that preceded the arrest and the apparent loss of temper that predicated it. Moreover, the unwarranted shove exacerbated the situation and was itself problematic. It was notable on the relevant recording from the in-car camera that the officer said, "No force," when asked by the responding sergeant whether any had been used in the encounter. Though the officer later acknowledged it and sought to justify it (in passing) in his written report, the contact looked to be more a function of frustration than tactics.

In fairness, the incident did pose challenges to the officers. Bystanders can indeed complicate an arrest scenario, particularly when they are friendly with the person being detained and also under the influence. Officer safety concerns are legitimate, and the line between an unlawful intrusion and a permissible exercise of personal rights can be a fine one. But the ability of the police to

navigate such situations with composure and professionalism is a key part of the high standard to which they are held. PAPD's emphasis on appropriate accountability in this case reflects an important commitment to that standard.

The sergeant's performance in this case also came under thoughtful review. Though he clearly had qualms about what had transpired, the sergeant was arguably slow in recognizing the significance of the video evidence (which he watched for the first time near the end of his shift). Then, by the time he was returning to work the next day to pursue the matter further, the incident had already come to the attention of his own supervisors – effectively taking the matter out of his hands.

While the timing issue leaves some open questions about what his ultimate actions might have been (thus militating against a finding that his response was substantively inadequate), it is fair and appropriate for the Department to hold him accountable for his failure to promptly notify his lieutenant about the incident. The relevant policy – and the documented instructions that the specific lieutenant had provided about his expectations – exists in recognition of the idea that timeliness matters in law enforcement in a variety of ways, and that certain situations should involve the awareness and input of senior personnel. Addressing the issues in the case by sustaining this allegation was a reasonable and proportionate response.

IV. Conclusion

As always, we appreciate the opportunity to perform this auditing function for the City of Palo Alto. This report reflects our fundamental impression of the Police Department and its internal review mechanisms: that it takes officer accountability seriously and conducts investigations that are appropriately objective and that reach legitimate conclusions. At the same time, as with any agency, there is a constant value in evolving and pursuing new approaches. The rigorous and holistic assessment of specific incidents contributes greatly to that pursuit of continuous improvement, and we hope our auditing process helps to promote and enhance that endeavor.

To that end, we appreciate the candid dialogue we have shared with Department leadership in recent years; while we do not always agree, the conversations are constructive and useful. With that dynamic in mind, we look forward to meeting with the new Chief and learning more about his vision for the Department's future.