

Interim Report on PERF Recommendations Implementation Progress

COLUMBUS, OHIO

DRAFT REPORT

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1 Introduction

The Matrix Consulting Group was retained by the City of Columbus to conduct a Management and Operations Study of the Police Division. As part of that study the project team was asked to review the PERF report on IAB that was completed in 2016 and to determine what recommendations have been implemented to date. Matrix Consulting was asked to review the recommendations as a neutral third party.

In reaching the concluding points of this interim report, the project team relied on the PERF report and data provided to the project team on implementation of the recommendations made in that report. Where possible the project team confirmed whether a recommendation had been implemented or not. If the recommendation had not been implemented the project team noted its current status or impediment to the implementation. This report relies on the results of the field work, review of reports, CPD Website and analysis conducted by the Matrix Consulting Group project team working with staff in the CPD.

2 Findings

The following table outlines our findings of implementation of PERF recommendations:

1 Selection of IAB Personnel	
PERF Recommendation	PERF made the following recommendations to improving the method of assignment to positions within IAB: (1) Assignment should be based on merit, to include judgment, investigative experience, skills, and professional ethics and not solely on a system of seniority, (2) The Chief of Police should be responsible for the final selection of personnel to ensure IAB is comprised of personnel who reflect the values and diversity of the community they serve.
Status	Not Implemented - Contract negotiations resulted in no change in the assignment selection process.
Analysis	<p>The collective bargaining agreement (CBA) for CPD is fairly restrictive in what factors can be used for selection for most assignments. The CBA specifies that seniority is the basis for most assignments.</p> <p>Best practice would be to use a merit-based system for selection to this critical assignment.</p> <p>It is worth noting historical context of the seniority-based system for assignment selection in Columbus. The project team was informed through interviews that the seniority-based selection was established in the contract because there were units within CPD where selection was</p>

not based on merit. Once seniority was used for selection the diversity in units increased.

2 Mandatory Rotation Policy

PERF Recommendation PERF recommendation: All ranks and assignments in IAB (including the intake desk) should be fixed to a rotation of 3-5 years.

Status **Not Implemented** - Contract negotiations resulted in no change in the assignment selection process.

Analysis PERF cited investigative “burn out” and investigators becoming jaded. Many agencies have a rotation policy for IA for the reasons stated in the PERF report.

3 IAB Investigator Training

PERF Recommendation PERF recommends the Division continue to prioritize slots in the CPD Detective Bureau Investigative Class which is given yearly. PERF recommends all newly-assigned investigators be sent to a specialized, reputable internal affairs school within the first three months of assignment, and that IAB provides ongoing training and professional development for all investigators.

Status **Mostly Implemented** - There are 2 IAB-specific training courses that have been identified as potentially valuable; 1. The University of North Florida-Institute of Police Technology and Management-40 hour course and 2. The Police Agency Training Council (PATC)-24 hour course. Volunteer IAB Sergeants are attending each of these training courses in order to assess their value. At the conclusion of this assessment, a request will be made to bring the identified training to the James G. Jackson Training Academy for all IAB personnel to attend. From that point forward, newly-assigned IAB Sergeants will be sent to the training in the first 6 months of their assignment.

In addition, all Columbus Division of Police-IAB Sergeants have become members of the National Internal Affairs Investigators Association (NIAIA). This organization offers on-going training for IAB investigators.

The Division is currently working with Clemans, Nelson and Associates to develop training specific for Internal Affairs Investigators while conducting discrimination and EEO investigations.

2017 included mandatory EEO training provided by the Division’s Human Resource Manager for all IAB personnel.

In 2018 all new IAB investigators attended Detective Bureau training for investigators.

In 2018 IAB created a training spreadsheet to track and identify valuable training. This is fluid and anticipated to evolve as training improves.

2019 includes Dr. Elizabeth Brockman from Central Michigan University conducting mandatory Effective Written Communication training for IAB investigators.

Analysis The changes that IAB has made and is making will meet best practices. The training curriculum they have chosen best meets the needs of IA professionals. PERF recommended attendance at the detective's academy, though there are some elements of these academies that could be useful, the academies are directed at criminal investigations which are much different than internal investigations.

4 Annual Reports

PERF Recommendation PERF recommends IAB annual reports should explain that complaint investigations data can fluctuate over time as cases are continuously updated. When preserving data about complaint investigations, the IAB Annual Reports should clearly state the date when data were extracted for analysis.

Status **Mostly Implemented** - The 2017 Annual Report (the last available on Website) showed the date range on some statistics or referred to the entire year.

Analysis A simple footnote explaining the data would be more transparent. One issue that is common in law enforcement case data is that a case may be opened and closed in different years, for this reason the FBI does not report criminal case information until June or July of the following year. For IAB it may be better to just track case closure dates to show cases that are closed by calendar year. This means the data may be slightly off for the calendar year, but will suffice in giving information to the public in a timelier manner.

5 Sergeants' Mentoring of Newer Officers

PERF Recommendation PERF recommends sergeants should be encouraged to mentor and guide their most inexperienced officers. PERF noted that CPD has very large spans of control with sergeants sometimes in charge of 22 officers.

Status **No data to available to know if more mentoring is occurring.**

Matrix Analysis Preliminary information from the Matrix Staffing Analysis is that spans of control are still much greater than recommended.

6 Strengthen Complaint Data

PERF Recommendation	PERF recommends the CPD should take steps to strengthen its complaint data and reduce the number of allegations in which the demographics of the complainant, are including race, are reported as unknown.
Status	Implemented - The 2017 Annual Report indicated a better demographic capture rate with only 11% marked as unknown.
Analysis	Due to software issues and complaint gathering techniques there were a higher number of complainants that were noted as unknown (21%) in 2014. In 2015 the number of complainants noted as unknown dropped to 16%.
7 Utilize an Ombudsman	
PERF Recommendation	PERF recommends the CPD should utilize an ombudsman or independent auditor to conduct periodic reviews of its use-of-force allegations to better understand the nature of use-of-force allegations (including the relationship between the allegations and race) and to ensure that these allegations are being fairly, consistently, and thoroughly investigated.
Status	Not implemented
Analysis	<p>Many agencies use an Auditor's office to perform periodic review of community member complaints to ensure compliance with policy and investigative standards.</p> <p>It is best practice to have an outside periodic review, even if it is random case sampling.</p>
8 Report Ethnicity and Race Statistics	
PERF Recommendation	PERF recommends the IAB should report ethnicity and race statistics separately in the IAB annual reports.
Status	Implemented - The 2017 annual report breaks out each of these categories.
Matrix Analysis	This is best practice.

9 Record All Officer and Complainant Demographics	
PERF Recommendation	PERF recommends the CPD should strive to record all complainant and officer-level demographic information accurately; whether it is collected at the time the complaint is received or collected and updated later.
Status	Implemented - With the move to Premier 1, IAB is able to capture more demographic data.
Analysis	This is best practice.
10 Remove False Report Warnings	
PERF Recommendation	The CPD should remove warnings about making a false complaint from its complaint materials. PERF also recommends this information not be given over the telephone.
Status	Not implemented - CPD has muted the warning, but it is still present on IAB materials.
Analysis	<p>PERF made this recommendation based on the notion that warnings may discourage people from filing legitimate complaints. IAB has the warning on the IAB materials to discourage retaliatory or untruthful complaints which can waste investigative resources. There is no academic research to indicate that warnings have an impact on whether a complaint is filed or not; there is also no research to indicate that it reduces untruthful complaints.</p> <p>Filing of false reports is a crime, though very few cases are prosecuted as the following data indicates:</p> <p>In 2016, Internal Affairs filed 3 criminal charge against persons filing a false complaint.</p> <p>In 2017, Internal Affairs filed 5 criminal charge against persons filing a false complaint out of a total of 308 complaints or approximately 1.6% of all complaints received.</p> <p>There is nothing in the State Revised Code (2921.15(B)) to indicate that a warning must be given for successful prosecution. Though removing warnings from complaint materials is generally best practice, it could have a disparate impact on African Americans in Columbus as they represent approximately 28% of the population, but file approximately 48% of complaints.</p>

11	Desk Sergeants Should Not Be Gate Keepers to File a Complaint
PERF Recommendation	PERF recommends desk sergeants should not have the ability to serve as “gatekeepers” who can discourage or prevent complaints from proceeding.
Status	Not data to determine if this has changed. In 2017 IAB reported 2,673 contacts and 308 complaints received.
Analysis	<p>PERF recommends that desk sergeants not serve as “gatekeepers.” Desk sergeants should not dissuade anyone from making complaints, however there are times that community members may ask questions to determine if a violation may have occurred or to gather more information about policies or procedures. It is not uncommon for someone who originally thought about making a complaint changing their mind once more information is presented.</p> <p>Though PERF recommends desk sergeants just take the complaint, the project team believes there is value in educating community members on policy or procedures that might have led to the community member’s dissatisfaction with a police contact. They should not dissuade a complaint, but there may be benefit in providing information.</p>
12	Link the IAB webpage to the Main Police Webpage
PERF Recommendation	IAB should work with city IT personnel to ensure that IAB’s webpage is linked directly to the main police webpage as soon as possible and is easily to citizens using the website.
Status	Not implemented - The project team was informed that a request has been made to have the website updated, but has yet to be completed.
Analysis	The Webpage should be linked as this is best practice.
13	Add Prominent Button to the Home Page in Multiple Languages
PERF Recommendation	IAB should add a prominent button to the home page of its website, in English, Spanish, Somali, and other languages as needed, which allows users to file a complaint against a member of the agency or submit a commendation.
Status	Not Implemented - The project reviewed the CPD website main page and Internal Affairs main page.
Analysis	This recommendation has not been met and it is best practice to have an easy to follow one “click” button to file a complaint or compliment. On the main CPD website there is link to internal affairs, but no actual button that would lead to an online complaint or compliment form. On

the IAB website there is an email link to contact IAB, but not a button in multiple languages as recommended.

A one button link on the main CPD webpage should be displayed to file a complaint or compliment.

14	Complaint Form in Multiple Languages
PERF Recommendation	Online complaint should be available in English, Spanish and Somali.
Status	Not Implemented - As noted above.
Analysis	All information is in English.
15	Include Language on Complaint Form to Clarify Non-US Citizens Can File Complaints
PERF Recommendation	The IAB website and complaint forms should include language to make it clear that members of the public do not need to be U.S. citizens or residents of Columbus in order to file a complaint.
Status	Not Implemented - The complaint form makes no statement about whether you need to be a U.S. Citizen to file a complaint, however on the bottom in the administrative section it has a space for "Citizen Concern Form Number."
Analysis	The IAB complaint form does not ask citizenship status and does not state you need to be a citizen to file a complaint, however having it state "Citizen Concern Form Number " may be viewed as requiring citizenship status. Adding a statement that states you do not need to be a citizen make it clearer.
16	Remove Warnings About the Possibility of the Need to Take Polygraph.
PERF Recommendation	The CPD should remove the statement "If the accusation is serious, you may be asked to take a polygraph test" from the IAB website and complaint form.
Status	Not Implemented - The warning about possibly needed to take a polygraph is still on the website.
Analysis	A warning about the need to take a polygraph is unneeded and may have a chilling effect on someone pursuing a complaint.

17	Promote Transparency by Posting Annual Reports
PERF Recommendation	To promote transparency and openness with the community, current and past IAB annual reports should be available on IAB's webpage.
Status	Not Implemented - The 2017 annual report is the only report available on the IAB website.
Analysis	Making Annual reports available to the public is best practice. The division should also have a link to most policies with the exception of policies that may compromise officer safety e.g. response to active shooter, tactics, etc.
18	To Promote Accountability the Chief of Police Should Be the Final Reviewing Authority
PERF Recommendation	To promote accountability and to ensure consistent case outcomes, the Chief of Police should be the final reviewing authority for all complaints cases.
Status	Implemented - The Chief and Deputy Chiefs share responsibility for this process depending on the severity of the case.
Analysis	The PERF recommendation also noted in a large organization it may not be feasible for the Chief to review all complaints. CPD is a very large organization and many of the complaints that are received are not deemed serious. There were 308 complaints received in 2017 which would be a very large caseload for a chief to review.
19	The Time Limit of 180 Days to Complete Cases
PERF Recommendation	PERF recommends to ensure timely processing of cases there should be a maximum of 180 days to complete a case.
Status	Implemented - IAB met the time 100% of the time in 2017. The target completion date for Level 1 complaints is 90 days, the target completion dates for level 2 complaints is 120 days. (This is set by the collective bargaining agreement).
Analysis	The 180 day time line is best practice. IAB breaks complaints out due to the severity of the complaint and the investigative unit (Low level complaints can investigated by reporting unit, though IAB tracks all cases and timelines.) In 2017 level 1 investigations averaged 30 days and level 2s averaged 28 days. 100% of complaints were reviewed within the time line.

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Case Outcomes**PERF Recommendation**

PERF recommends a change to the definition of unfounded; the allegation is refuted by a preponderance of the evidence. PERF indicates such a revision would align more closely with similar definitions used by comparable agencies and the COPS Office (p. 40) which assigns a finding of “Unfounded” when the investigation conclusively proves the alleged actions never occurred. The current standard requires only a preponderance of the evidence, and this change would require “conclusive proof” the employee did not commit the alleged violation. Consequently, this would likely require an adjustment in the definition of “Not Sustained,” which would then encompass allegations where only a preponderance of the evidence exists, but the threshold of conclusive proof could not be attained. Such a change would also eliminate the need for the finding of “Cancelled for Cause,” which would then be absorbed under the category for “Unfounded.”

Status

Not Implemented - The definition was not modified after recent contract negotiations

Analysis

CPD’s definitions for findings is outside of definitions we have encountered in other projects. PERF recommendations are best practice.

21

Audit Complaint and Complaint Intake**PERF Recommendation**

PERF recommends the CPD should utilize an ombudsman or independent auditor to conduct periodic reviews of its complaint intake and complaint investigations.

Status

Not Implemented - This recommendation has not been implemented.

Analysis

Periodic Independent audits are best practice.

22

Audit Complaint Intake Calls**PERF Recommendation**

PERF recommends the Staff Inspections Section of the CPD perform random quarterly audits of IAB complaint intake calls for quality assurance.

Status

Not implemented

Analysis

Random audits would ensure consistent service and allow the division to take corrective active if service objectives were not met.

23	Audit Complaint Intake Calls
PERF Recommendation	PERF recommends when investigating complaints, the IAB should focus not just on whether the officer's actions were legal, but should also consider whether there was a better way for the officer to have responded that might have reduced the risk of injury to all involved.
Status	Not implemented
Analysis	The project team disagrees with this role for IAB investigators. IAB should be solely charged with determining whether a violation of policy occurred. If there is a trend from investigations, that data should be shared with the training division to conduct further training to improve responses to incidents. All complaints should be debriefed by command staff with the officer and issues of better approaches should be discussed where appropriate.
24	Intake Call Taker Rotation
PERF Recommendation	PERF recommends IAB intake call takers rotate every 3-5 years.
Status	Not Implemented-
Analysis	As noted above many agencies have a rotation policy for IA positions. This may be subject the CBA.
24	New Intake Call Taker Training
PERF Recommendation	PERF recommends new call takers receive customer service training.
Status	Not Implemented
Analysis	The requirement of specific customer service training could be helpful and may be a component of other training.
25	Complaint Callbacks
PERF Recommendation	PERF recommends the Staff Inspections Unit conduct random number of complaint callbacks on a routine basis in order to identify quality control issues.
Status	Not implemented
Analysis	Random callbacks can identify quality control issues, however it could also anger people who have moved on from the complaint. If they were not satisfied with the prior outcome they could want to reopen the case, which may have been resolved appropriately already.

26 Employee Action Review System (EARS)	
PERF Recommendation	PERF recommends the CPD start a true early warning system that goes beyond the current EARS system to create a proactive process for monitoring officers on an ongoing basis.
Status	Not Implemented
Analysis	The current EARS system reviews officer use of force, vehicle accidents and other categories every six months by committee. A true early warning system has thresholds set into the software so that any action could trigger an immediate review by a supervisor. Many systems will track use of force complaints, vehicle accidents, traumatic event exposure, lawsuits and overtime worked. Once a statistical threshold is met a supervisor is notified to begin a review. This allows the division to take immediate action if necessary.
27 Modify CBA Section 8.13	
PERF Recommendation	PERF recommends the CPD negotiate with the FOP to modify Section 8.13 "Access to Records" to limit access to the amount of case information an officer is entitled to. Officers should have access to documents, audio and video of they created, but not have access to records created or discovered by others.
Status	Not implemented - This was not part of the recent contract negotiations.
Analysis	Officers should have access to reports, audio or video from their cars or body worn cameras and intake documents that detail the nature of the allegation and other pertinent information. Information discovered during the course of the investigation should not be shared with the officer prior to making statements. This is subject to collective bargaining as noted.
28 Retention Length of the Documented Constructive Counseling	
PERF Recommendation	PERF recommends the CPD negotiate with the FOP to lengthen the amount of time the Documented Constructive Counseling statement may remain in the employee's file before expungement (1 - 3 years).
Status	Not implemented - This was not part of the recent contract negotiations.
Analysis	A 1 year time frame is a more typical period of time for minor performance issues. More serious issues are filed as A Written Reprimand with a three year time line.

3 Conclusions

The CPD created a PERF Implementation Committee to address PERF recommendations and establish plan to implement the recommendations where possible. The committee has been charged with implementing the recommendations and some of the recommendations are being implemented or IAB is in the process of determining if change is possible.

A number of the recommendations rely on outside entities such as changes to the collective bargaining agreement or changes that may have legal ramifications for the division and the CPD is not responsible for the updates to the website and changes must be coordinated with the Department of Technology.

The CPD has put a process in place to make the recommended changes from the PERF report, but few changes have occurred to this point.