

Missing Persons Policy Brief and Recommendations

Prepared for the Oakland Police Commission Missing Persons Policy Ad Hoc Committee

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Summary

Department General Order O-6 – the Oakland Police Department’s missing persons policy – was last revised in December 2009. Since the date of its last revision, there have been changes to both law and the tools available for missing persons investigations that necessitate a significant revision of the current policy language, and the Oakland Police Commission has engaged a special Missing Persons Policy Ad Hoc Committee to work with the Department and Community in crafting that revision. As part of that review, the Commission Chair requested a brief analysis of the current policy with an eye towards the law and best practices, and a set of the preliminary policy elements that should be considered by the Committee as they engage in the work.

After a review of CPRA policy recommendations based on misconduct investigations, current state and national best practices and training manuals, and like policies from other jurisdictions, there are minimally five (5) specific areas that merit additional attention by the Missing Persons Ad Hoc Committee of the Oakland Police Commission during this process. Those areas as follows, with additional information on each in the subsequent pages:

- 1) Changes to Law
- 2) Outreach/Media
- 3) Procedures and Processes
- 4) Use of Body Worn Cameras (BWC)
- 5) Resources for Reporting Parties

Introduction

In the 12 years since Department General Order O-6 was last revised, there have been changes to both law and practice around missing person investigations. In April 2021, the Oakland Police Commission created a new Policy Ad Hoc Committee to consider revisions to DGO O-6; and requested a policy brief detailing some of the deficiencies in the current policy and areas in which it could be improved. After a preliminary review of the existing policy, recommendations arising from from CPRA investigations, best practices, and model policies from other jurisdictions, five (5) areas for improvement were identified as important elements for the Ad Hoc to consider. Each of these 5 areas is highlighted below with a brief explanation and reference to additional materials where necessary.

Recommendations

1. **Changes to law:** Since the time of the last revision to DGO O-6 there have been changes in law that affect both the policy language in the missing persons policy as well as the legal authorities that the policy cites. Specifically, and most importantly, California law has expanded the definition of at-risk youth from only being those 16 and under, to include all missing individuals under the age of 21. From CPRA reviews of missing persons investigations, it appears that current OPD practice matches the new law, and that the investigative steps required for this category of

missing person has been applied to those up to the new legal definition despite that not being in policy. However, it is important that the policy be aligned to those changes in law and that the policy reflects the correct legal basis for each mandate included. The latest summary CPRA recommendation with respect to DGO O-6 is as follows:

“1. As indicated above, DGO O-6 has not been updated since December of 2009. Although an evaluation date of June 2010 and a 3-year automatic revision cycle, it appears no further revisions have been made. The DGO is out of step with current law in several ways in part due legislative revisions and renumbering of several sections relating to missing persons investigations in recent years. For example:

a. The DGO references Penal Code section 14213 for the definition of an “at risk” individual; in 2017, the Legislature renumbered that section, and the definition is now contained in Penal Code section 14215.

b. The DGO references Penal Code section 14205 and talks about steps to take when a missing person is under the age of 16 or “at risk”. That section was renumbered in 2015 and revised to include persons under the age of 21, not 16. This is a substantial difference and is relevant. While it appears OPD completed the steps required for “at risk” persons in this case, it is important to ensure future investigators are given this guidance so that they, too, can take appropriate action for “at risk” individuals from 17 to 21 years of age.

CPRA recommends that the Department work with the proper legal advisers to bring this DGO up to date as quickly as is practicable, both by making the edits noted above, independently double-checking the DGO against current law, and consulting with current subject matter experts for recent changes in best practices. (See generally, Pen. Code, § 14000 et seq.)”

2. **Outreach/Media:** The OPD policy is also significantly out of date with respect to the tools it describes for outreach when a missing person is reported. The revision should clearly state the availability of social media as a mechanism for communicating about missing persons cases and create a framework for how social media is to be used for these investigations. While several new policies from other departments and training materials offered by the Department of Justice and California Police Officers Standards and Training (POST) mention social media policies and reference their importance to investigations, developing specific requirements for social media use in missing persons investigations would make Oakland a leader in this area.

Second, the current policy also mentions TRAK in the context of the production of the Critical Reach Missing Persons Fliers (with pictures and details about the missing person) which are perhaps the most well-known public facing information tool. However, as per the most recent POST training, Critical Reach fliers are no longer part of TRAK, and can simply be referenced as Critical Reach.

Finally, the Committee should consider whether there should be changes to the Department’s approach to school notification, including the use of a more detailed school notification form. The current policy mandates that the Department share the Critical Reach flier with a missing child’s school within 10 days as mandated by law. However, as described in the POST training materials:

“No standard statewide form is currently mandated, but a detailed form is essential. See sample form – see 4-59 School Notification Missing Child (included below). It is recommended that your agency form be printed on brightly colored paper.

An agency representative should meet with school officials to notify them of the missing student, and to review the form (that will be attached to the student’s file). The agency representative will explain to school officials the importance of any future documentation, and the agency’s responsibilities, if a person calls to request transfer of the missing student’s files to another school district.”

EMERGENCY SCHOOL NOTIFICATION MISSING OR ABDUCTED CHILD ALERT	
Date of notification _____	
This is a notice to the school administration of (School Name) _____	
Name of missing / abducted child: _____	
Sex _____	Race _____ Date of Birth _____
If this student is located, or if anyone calls asking for information, or requests the transfer of school records, immediate law enforcement notification is required.	
Do not release any information or records until told to do so by law enforcement. Do not tell the requesting party of this notification, law enforcement will instruct you what to do. Immediately contact:	
The employee assigned the case is _____	Serial No. _____
The phone number to contact the investigator is: _____	
The report number on this case is _____	Date of missing / abduction _____
<ul style="list-style-type: none"> • If the employee is not available, ask for any Detective Supervisor. • In you are unable to make personal contact with the assigned employee in this matter, immediately contact the Detective Watch Commander or the Patrol Watch Commander and reference this notification sheet. The phone numbers are: Detective Watch Commander _____ Patrol Watch Commander _____ • If the child is found during off-hours, or no one answers the phone number listed above, call 911 and provide the information above. 	
Photograph	
Attached to this form may or may not be a photograph of the missing child. Additionally, take into consideration the child’s age when the photograph was taken. Many times the actual school yearbook photograph may be more current.	
<input type="checkbox"/> Photograph not provided by reporting party.	
See back page for additional information / instructions Page 1 of 2	
Pursuant to California Educational Code 49068.6 (a), which was added January 2001, the code requires all law enforcement agencies to notify the child’s school of attendance, in writing, when a child is reported missing / abducted. The code requires the school to place the notification letter in the front of the student’s school / attendance record.	
This notification form has two purposes:	
<ol style="list-style-type: none"> 1. In many cases, young children in elementary school fall victim to parental abduction, or other related serious victimization / kidnapping. When this occurs, many times the abductor will have to request the previous school records in order to enroll the child into a new school. By having this form in the front of the child school / attendance record, the school would be made aware of the situation and cause law enforcement authorities to be notified immediately, potentially aiding in the recovery of the child. 2. The second purpose of this form involves cases where a child runs away and returns to school, not notifying his or her parent. 	
EDUCATION CODE SECTION 49062-49069.5	
49068.5. EC Upon the initial enrollment of a pupil in a public or private elementary school; or whenever an elementary school pupil (a) transfers from one school district to another, (b) transfers to an elementary school within the same district, (c) transfers from one private elementary school to another, (d) transfers from a private elementary school to a public elementary school, or (e) transfers from a public elementary school to a private elementary school, the principal of the school that the child enters or to which he or she transfers <u>is urged to check to see if the child resembles a child listed as missing by the bulletins provided by the Department of Justice pursuant to Section 14201 of the Penal Code.</u>	
49068.6(a) EC Any law enforcement agency responsible for the investigation of a missing child shall inform the school district, other local educational agency, or private school, in which the child is enrolled, that the child is missing. The notice shall be in writing, shall include a photograph of the child if a photograph is available, and shall be given within 10 days of the child’s disappearance.	
<u>49068.6(b) EC Every school notified pursuant to this section shall place a notice that the child has been reported missing on the front of each missing child’s school record. For public schools this shall be in addition to the posting requirements set forth in Section 38139.</u>	
49068.6(c) EC Local law enforcement agencies may establish a process for informing local schools about abducted children pursuant to this section.	
<u>49068.6(d) EC If a school receives a record inquiry or request from any person or entity for a missing child about whom the school has been notified pursuant to this section, the school shall immediately notify the law enforcement authorities who informed the school of the missing child’s status.</u>	
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3. **Procedures and Process:** The current policy does not include several available tools that could help guarantee consistency and completeness in missing persons investigations – especially for new investigators or those who do not regularly conduct such investigations. While some of these are available in other OPD policies and reports, it would be useful to include several of them in the policy itself. The Missing Persons Ad Hoc Committee should consider including and specifically referencing those materials in the OPD policy. Specifically, the DOJ Investigative Checklist for First Responders included in the materials distributed to the Committee is a standard checklist used by many departments. The OPD has a combined first responder checklist that applies across several type of investigations, however a specific checklist tailored to missing persons cases and referenced in the policy would emphasize the importance of consistency in investigations and provide additional assistance to new investigators.

It would also be useful to include a table with the applicable deadlines and legally required investigative steps outlined in a single place. The POST course includes such a table (below), and the Ad Hoc Committee should consider including it in DGO O-6. This table could also include any

timelines and deadlines for Social Media outreach as determined by the Committee.

Section 6 Missing and Unidentified Persons Reporting Reference Chart

All local police and sheriffs' departments shall accept any report of a missing person (MP) without delay, per Penal Code §14205(a). Report types are listed by age group; note the applicable code section: Penal Code (PC), Education Code (EC), or federal statute (U.S.C.).

MISSING PERSON AGE	REQUIRED ACTION						
	"Be On the LookOut" Bulletin	Missing Person System (MPS) Entry	Missing Person Report Forwarded to Appropriate Jurisdiction	Initial Coroner Check	Missing Person Report with Photograph and X-rays Submitted to DOJ	Written Notice to School	DNA - Advise of Right to Submit Sample ²
At Risk ¹ (any age)	Without Delay PC §14205(a)	Within 2 Hours PC §14205(b)	Within 24 Hours PC §14205(c)	Immediately ³ PC 14206(a)(2) ³	Within 24 hours submitted to DOJ PC §14206(a)(2)	If a child, within 10 days EC 49068.6	30 Days PC 14250(c)(2)
0 to 15	Without Delay PC §14205(a)	Within 2 Hours PC §14205(b)	Within 24 Hours PC §14205(c)	Immediately ³ PC 14206(a)(2)	Within 24 hours submitted to DOJ ² PC §14206(a)(2)	Within 10 Days EC 49068.6	30 Days PC 14250(c)(2)
16 to 17	Law Enforcement Discretion	Within 2 Hours PC 14205(b)	Within 24 Hours PC §14205(c)	Immediately ³ PC 14206(a)(2)	Within 24 hours submitted to DOJ ² PC §14206(a)(2)	Within 10 Days EC 49068.6	30 Days PC 14250(c)(2)
18 to 20	Law Enforcement Discretion	Within 2 Hours PC §14205(b)	Within 24 Hours PC §14205(c)	Within 40 days ³ PC §14206(a)(1)	Within 45 days submitted to DOJ ² PC §14206(a)(2)	NA	30 Days PC 14250(c)(2)
Age 21 and over	Law Enforcement Discretion	Without Unreasonable Delay	Within 24 Hours PC §14205(c)	Within 40 days ³ PC §14206(a)(1)	Within 45 days submitted to DOJ ² PC §14206(a)(2)	NA	30 Days PC 14250(c)(2)

¹ Evidence that a person is at risk includes, but is not limited to, evidence or indications that the missing person is one of the following: (1) is a victim of a crime or foul play, (2) is in need of medical attention, (3) has no pattern of running away or disappearing, (4) may be the victim of a parental abduction, or (5) is mentally impaired, per PC §14213(b).

² The DOJ shall act as a repository for dental examination records of missing and unidentified person(s) and will compare the records for the purposes of identification, per California Health and Safety code 102870

³ Immediately and then periodically throughout the course of the investigation

- 4. Use of Body Worn Camera (BWC/PDRD) to Collect Statements:** The Department's body worn camera (BWC/PDRD) policy includes direction on how and when to use that tool to capture statements generally. The utility and importance of capturing and maintaining a recorded version of those statements in the case of missing persons investigations – where immediate statements may contain details that are instrumental to the investigation – are such that the Ad Hoc Committee should consider specific instruction as to whether and how body worn cameras should be used for collecting statements or documenting investigative steps in missing persons cases as part of that policy.
- 5. Resources for Reporting Parties:** Finally, the existing policy contains very little specific guidance for how Department staff interact with parties that report a missing person. Many jurisdictions (i.e. the Chicago PD policy) contain explicit instruction about materials and resources that should be provided to the reporting party. Such support could include references to the specific referrals to other resources such as the National Center for Missing and Exploited Children and the National Runaway Safeline that provide vital resources for missing persons cases, dialogue scripts or materials for initial responders to assure consistent messaging and interactions, and/or guides and support with referrals to other available victim and family support services, as necessary. In practice, the OPD provides some of these support services and guidance to reporting parties, however they are not codified in the missing persons policy. Adding explicit instructions for how to engage reporting parties in this policy could assist not just the reporting party receiving that information, but also emphasize the importance of that engagement to the investigating officer.