CITY OF BEVERLY HILLS

POLICE DEPARTMENT

MEMORANDUM

FROM: David L. Snowden, Chief of Police

DATE: November 4, 2014

SUBJECT: Internal Review Summary

Introduction

On Friday, August 22, 2014, at approximately 5:16 p.m., a bank robbery occurred at the Citibank located at 8485 Wilshire Blvd. Police units responded to the area of the crime and quickly detained two subjects believed to be involved in the robbery. One of the subjects, identified as the bank robber, was Brianna Kloutse, a prolific bank robbery fugitive wanted for over two years by the FBI and LAPD. Kloutse was responsible for nine completed bank robberies and two attempted bank robberies in the Los Angeles area. She has sinced been arraigned and held to answer.

Approximately four minutes after the call was received, the Beverly Hills Police Department detained and later arrested Mr. Charles Belk, who was walking in the vicinity of the bank and generally matched the description of the male suspect. Although it was not known by the Beverly Hills Police Department at the time, Mr. Belk was not involved in the bank robbery and, in fact, is a Hollywood producer who had no previous history of involvement with the police.

Mr. Belk was wrongly identified by an eye-witness as having been the male suspect who was in the bank and thereafter remained in police custody for approximately six hours. The Beverly Hills Police Department has acknowledged that Mr. Belk's in custody could have been substantially shortened if the Department had earlier viewed video evidence from the bank that exonerated Mr. Belk. The Police Department has also acknowledged that in this instance it failed to provide a phone call to Mr. Belk as required by law and the Department's policies.

Note: Further investigation ultimately determined that the second subject in the bank was not, in fact, involved in the robbery. This subject was an irate customer whose actions were misinterpreted by the witness.

Internal Review

Although the arrest of Mr. Belk was lawful and supported by probable cause, it later became apparent that an innocent man was subjected to the criminal justice process. As a result, members of the Police Department administrative staff and Professional Standards Unit conducted an internal review of the events leading up to Mr. Belk's arrest and detention. The focus of this review was the specific events associated with Mr. Belk's incident as well as a general review of relevant police policies and procedures.

I. Field Detention

Our review confirmed that there was proper reasonable suspicion to initially stop and detain Mr. Belk. This is based on the fact that he closely matched the broadcast description of the male suspect; was observed walking in a direction away from the bank; his close proximity to the bank (less than 500 ft. away); and the short time span since the robbery broadcast was dispatched. Officers conducted in-field identifications (commonly referred to as field show-ups) which positively identified both Ms. Kloutse and Mr. Belk as the suspects from the bank robbery. Mr. Belk told the arresting officers that he was at a local bar with a friend(s) at the time of the robbery (alibi). However, no attempt was made in the field to send an officer to the bar to verify or discount the alibi. This is a basic investigatory practice that is expected of a field officer and should have been done.

Officers did not review the bank video prior to leaving the bank despite the fact that it was in their possession. They did view the videotape depicting the female robbing the bank, but interrupted the viewing prior to observing the male suspect in order to conduct the witness field show-up. The officers never returned to the bank to continue viewing the video.

More diligent investigative work in the field by the patrol officers may have resulted in Mr. Belk's exoneration while he was still being detained in the field. Field investigation to either disprove or support an alibi is a standard practice when feasible. Proper adherence to this practice may have resulted in a field detention only and not an arrest for Mr. Belk if supported by other independent and verifiable information such as video evidence. Having done so, the officers may not have arrested Mr. Belk and could have continued to look for what they believed at that time to be a second suspect in the crime

The Beverly Hills Police Department has reinforced diligent on-scene investigative procedures to all personnel through roll call training. The Beverly Hills Police Department is in the process of establishing a policy, as a common investigative practice, to review all available electronic evidence as soon as practical. An officer should, whenever practical, review available electronic evidence prior to making an arrest if such evidence would tend to incriminate or exonerate a subject. However this should not unnecessarily delay the investigative process and/ or arrest.

II. In-Custody Detention

Mr. Belk was in custody at the Beverly Hills Police Department jail for five hours. The Police Department has already acknowledged that in this instance it failed to provide phone calls to Mr. Belk as required by law and the Department's policies. The Beverly Hills Police Department already has sufficient policies in place regarding inmate phone calls. The policies were not followed in this instance. The Beverly Hills Police Department has provided extensive training to all officers including our jail staff to make sure that all individuals receive their phone calls immediately after the booking process as per Department policy.

Mr. Belk has also raised concerns about whether Miranda warnings were required at any time during his detention and regarding the timeliness of his access to counsel. In response to these concerns and as discussed below, the Department will conduct training to reinforce the legal requirements and Department policies concerning Miranda warnings and access to counsel.

III. Summary

The positive identification of Mr. Belk by an eyewitness coupled with the fact that he was stopped a short distance away and almost immediately after the crime occurred was so overwhelming that the officers dismissed his alibi as improbable. The errors or shortcomings identified are all foundational principles of good basic police work both at the field officer level and the investigator level. An officer must follow up on all leads, verify facts, and seek to apprehend the guilty while attempting to exonerate the innocent.

As a result of this internal review, the following recommendations were made and will be or already have been implemented:

- Roll call training for all officers and detectives regarding:
  - Diligent investigative procedures
  - Miranda
  - The reliability of eyewitness testimony and Field Show-ups
- All sworn officers have just completed "Racial Profiling Update" training at the Wiesenthal Center. This training is POST mandated and was scheduled in advance of the Belk incident.
- Sensitivity/awareness training re the implications of an 849(b)(1) P.C. detention
- Establish policy, as a common investigative practice, to review all available electronic evidence as soon as practical.
- The in-field show-ups and the arrest/transportation of Mr. Belk could have occurred sooner. Policy should reflect that the arrest and transportation should occur as soon as practical.
- Even though the California Penal Code prohibits racial profiling and Beverly Hills police officers receive training reinforcing the prohibition against racial profiling, the Beverly Hills Police Department does not have a Manual Section addressing this issue. A Manual Policy Is being drafted to address/prohibit "Bias Based Policing."

- Additional training to ensure that all inmates will be given their phone calls promptly and in strict compliance with the Department's policies and Penal Code Section 851.5 (Sufficient/Multiple PD policies are already in place regarding inmate phone calls).
- Additional training to ensure that all inmates shall have access to legal representation in strict compliance with the Penal Code Section 825(b).
- Supervisors, whether at the scene of an investigation or at the time of booking approval should ask relevant probing questions to ensure that a proper and complete investigation has been conducted and that there is probable cause to support an arrest.
- A Professional Standards Unit investigation has been initiated to determine if misconduct and/or criminal violations occurred.