



UNITED STATES CAPITOL POLICE OFFICE OF INSPECTOR GENERAL

Analysis of United States Capitol Police Firearms Controls

Report Number OIG-2015-06

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UNITED STATES CAPITOL POLICE
WASHINGTON, DC 20003



OFFICE OF INSPECTOR GENERAL

PREFACE

The Office of Inspector General (OIG) prepared this report pursuant to the Inspector General Act of 1978, as amended. It is one of a series of audits, reviews, and investigative and special reports OIG prepares periodically as part of its oversight responsibility with respect to the United States Capitol Police (USCP) to identify and prevent fraud, waste, abuse, and mismanagement.

This report is the result of an analysis to determine whether USCP followed its policies and procedures and handled the disciplinary actions related to stolen, lost, and unattended firearms appropriately and how USCP policies, procedures, and disciplinary actions compared to other Federal, state and local law enforcement agencies.

I express my appreciation to those contributing to the preparation of this report.

A handwritten signature in cursive script that reads "Fay F. Ropella".

Fay F. Ropella
Inspector General

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Abbreviations and Acronyms

Assistant Chief of Police	ACOP
Bureau of Alcohol, Tobacco, Firearms	ATF
<i>Collective Bargaining Agreement Between the FOP/U.S. Capitol Police Labor Committee and the United States Capitol Police Effective June 8, 2010</i>	CBA
Chief of Police	Chief
Drug Enforcement Administration	DEA
Disciplinary Review Official	DRO
Federal Bureau of Investigation	FBI
Fraternal Order of Police, District of Columbia Lodge No. 1	FOP
Office of General Counsel	OGC
Office of Inspector General	OIG
Office of Professional Responsibility	OPR
United States Capitol Police	USCP or Department

EXECUTIVE SUMMARY

On May 21, 2015, [REDACTED], requested that the United States Capitol Police (USCP or Department) Office of Inspector General (OIG) conduct an independent analysis of USCP policies, procedures, and disciplinary actions related to incidences of unsecured firearms. In light of concerns about recent incidences of USCP officers leaving firearms unattended in public spaces, [REDACTED] expressed concern about whether controls for securing and accounting for firearms were adequate.

The primary objectives of our analysis were to determine whether USCP (1) had policies and procedures for controlling and safeguarding firearms, (2) complied with policies and procedures, and (3) consistently handled the disciplinary process related to stolen, lost, and unattended firearms. In addition, based on the best available data from other Federal, state, and local law enforcement agencies, we compared those discipline protocols and rates of loss of stolen, lost, and unattended firearms to the Department's disciplinary penalties and rate of loss. Our scope included Department policies, procedures, and disciplinary actions related to securing and accounting for (stolen, lost, and unattended) firearms from October 1, 2009, through May 20, 2015.

USCP established and implemented controls for securing and accounting for firearms. USCP Directives [REDACTED] dated May 28, 2012, and [REDACTED], dated November 19, 2012, require that employees keep Department-issued firearms secured at all times. The Directives also require that "the Department will issue each sworn employee a pistol lock box that may be used to secure the issued firearm at the employee's residence." USCP provides lockers for employees to secure firearms at most, if not all, USCP divisions and offices.

USCP complied with policies and procedures related to investigating stolen, lost, and unattended firearms and discipline of employees. For discipline, USCP follows the *Collective Bargaining Agreement Between the FOP¹ /U.S. Capitol Police Labor Committee and the United States Capitol Police Effective June 8, 2010* (CBA). From October 1, 2009, through May 20, 2015, the Office of Professional Responsibility (OPR) investigated 24 cases of stolen, lost, or unattended firearms. As shown in Table 1, of the 24 cases investigated, 18 were for unattended firearms and 6 of those 24 were for stolen firearms. OPR did not investigate any cases of lost firearms during that period.

¹ Fraternal Order of Police, District of Columbia Lodge No.1.

Table 1: Cases of Stolen, Lost, or Unattended Firearms from October 1, 2009, to May 20, 2015								
Case Type	Example	Cases per Year						Total
		2010	2011	2012	2013	2014	2015	
Stolen	Officer had issued firearm taken from personally owned vehicle at residence.	0	2	1	0	3	0	6
Lost	The result of an unattended firearm not being recovered by USCP, no cases occurred during this analysis period.	0	0	0	0	0	0	0
Unattended	Officer left issued firearm in restroom in the Capitol Visitor Center.	5	4	1	2	1	5	18
Total		<u>5</u>	<u>6</u>	<u>2</u>	<u>2</u>	<u>4</u>	<u>5</u>	<u>24</u>

Source: OIG generated based on data OPR provided.

The CBA defines the purpose of discipline as “not solely to punish the employee, but to affect an employee’s behavior in ways positive for both the employee and the Department.” The Department issues suspensions without pay as penalty for sustained cases of unsecured firearms. The length of time for suspensions the Department issued averaged approximately 5 days. Our analysis revealed that the Department did not have any repeat offenders during the scope period.

Based on data available from other law enforcement agencies and as shown in Table 3, the Department’s policies, procedures, and disciplinary actions are comparable to other Federal, state, and local law enforcement agencies. The minimum penalty for a first-time violation of similar policies at other Federal, state, and local law enforcement agencies ranged from a verbal counseling to a 10-day suspension. The maximum penalty for a first-time violation ranged from a letter of reprimand to termination of employment. USCP actually had a lower rate of stolen, lost, or unattended firearms between October 1, 2009, and May 20, 2015, than the rates of lost, stolen, or missing firearms reported in audits of other Federal law enforcement agencies.

The Department was finalizing a new directive for discipline as well as developing a new table of penalties that will cover all offenses and address recent events. The Chief is considering increasing the length of time of suspensions for stolen, lost, or unattended firearms from the current 5 days to 30 days. In response to the recent events of unattended firearms, the Department issued Bulletin [REDACTED], effective May 21, 2015, which addresses off-range firearms safety and security and requires that sworn officers complete the course when the officers respond to the range for their biannual weapons qualifications. In addition, Bulletin [REDACTED], effective May 29, 2015, requires that sworn employees complete this training by July 17, 2015. Because the Department was in the process of implementing major changes related to disciplinary penalties, OIG did not make any recommendations at this time. We requested and received comments on the draft of this report. Department officials agreed with the information presented and suggested several technical changes that OIG incorporated where appropriate.

BACKGROUND

As a result of recent incidences of the United States Capitol Police (USCP or Department) officers leaving firearms unattended in public spaces, [REDACTED]

[REDACTED] requested that the Office of Inspector General (OIG) conduct an independent analysis of USCP policies, procedures, and disciplinary actions related to stolen, lost, and unattended firearms. Recent incidences of stolen, lost, or unattended firearms within USCP included an employee leaving an issued firearm in a public restroom in the Capitol Visitor

Center as shown in Figure 1. Another incident included a member of the Speaker of the House's protective detail leaving an issued firearm unattended in a restroom in the Office of the Speaker of the House. The USCP Office of Professional Responsibility (OPR) completed the investigations on both of these cases, and the disciplinary process is ongoing.

OPR is responsible for investigating cases of lost, stolen, or unattended firearms for employees with a rank of Captain or below. OIG investigates cases of stolen, lost, or unattended firearms for employees with a rank of Inspector or above.

The Disciplinary Review Officials (DROs) within the Office of the General Counsel (OGC) are responsible for recommending disciplinary penalties for most disciplinary matters. Bureau Commanders are responsible for making final determinations on penalty recommendations. An employee may accept the Bureau Commander's penalty recommendation after which the matter is closed. An employee can contest findings and proposed penalties in writing to the Assistant Chief of Police (ACOP).² An employee can file an appeal or grievance³ to the Chief of Police (Chief) for any violation or penalty contested to the ACOP. In either case, the Chief would make the final determination on the penalty, but the employee could still submit the matter to arbitration.⁴



Source: CQ Roll Call.

² The employee can contest the findings and proposed penalty in writing to the ACOP for matters with a penalty recommendation of 14 days or less. For violations with a penalty recommendation of more than 14 days, an employee can elect to contest the matter in writing to the ACOP as indicated previously, or elect to have a Disciplinary Review Board Hearing in front of a panel of five police department officials including two members of the employee's own rank. Employees did not contest any of the cases indicated in this report through a Disciplinary Review Board.

³ Non-bargaining unit employees can only file an appeal.

⁴ Non-bargaining unit employees cannot submit matters for arbitration.

OBJECTIVES, SCOPE, AND METHODOLOGY

The primary objectives of our analysis were to determine whether USCP (1) had policies and procedures for controlling and safeguarding firearms, (2) complied with its policies and procedures, and (3) consistently handled the disciplinary process related to stolen, lost, and unattended firearms. In addition, based on the best available data from other Federal, state, and local law enforcement agencies, we compared accountability and discipline protocols to those of the Department's processes. Our scope included Department policies, procedures, and disciplinary actions related to securing and accounting for (stolen, lost, and unattended) firearms from October 1, 2009, through May 20, 2015.

To accomplish our objectives, we interviewed USCP officials to gain an understanding of the Department's policies and procedures for controlling and safeguarding firearms. We also reviewed the following guidance related to the security of firearms:

- USCP Directive [REDACTED], May 28, 2012.
- USCP Directive [REDACTED], November 19, 2012.

We reviewed the *Collective Bargaining Agreement Between the FOP⁵/U.S. Capitol Police Labor Committee and the United States Capitol Police Effective June 8, 2010* (CBA).

We conducted Internet research, and OPR contacted other Federal, state, and local law enforcement agencies on our behalf to obtain statistics and discipline policies and procedures related to stolen, lost, and unattended firearms. We also reviewed audits that the Government Accountability Office⁶ and the Department of Justice OIG⁷ conducted.

We conducted this analysis in Washington, D.C., during May 2015.

RESULTS

The Department established and implemented controls for securing and accounting for firearms. The Department also complied with policies and procedures related to investigating stolen, lost, and unattended firearms and discipline of employees. Based on the best data available related to

⁵ Fraternal Order of Police, District of Columbia Lodge No. 1

⁶ GAO-03-688, *Firearms Controls, Federal Agencies Have Firearms Controls, but Could Strengthen Controls in Key Areas*, dated June 2003.

⁷ The Department of Justice, OIG audit reports: Audit Report 07-18, *The Federal Bureau of Investigation's Control Over Weapons and Laptop Computers Follow-Up Audit*, dated February 2007; Audit Report 08-21, *The Drug Enforcement Administration's Control Over Weapons and Laptop Computers Follow-Up Audit*, dated March 2008; and Audit Report 08-29, *The Bureau of Alcohol, Tobacco, Firearms and Explosives' Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property*, dated September 2008.

other law enforcement agencies, the Department's policies, procedures, and disciplinary actions were comparable to other Federal, state, and local law enforcement agencies.

Controls for Securing and Accounting for Firearms

The Department established and implemented controls for securing and accounting for firearms. USCP has two policies addressing the security of Department-issued firearms. USCP Directive [REDACTED] states:

Care and security procedures are the responsibility of the employee. Magazine holders must be carried in a manner consistent with Department training. Employees must be held strictly accountable for the security of all weapons issued to them or under their control. At no time may any issued weapon be left unsecured or unattended. At no time may any firearm be left unattended in an automobile (except when secured in a Department-authorized or installed gun rack of an installed lockbox approved by a Bureau Commander or above).

The Directive also states that "the Department will issue each sworn employee a pistol lock box that may be used to secure the issued firearm at the employee's residence." USCP also provides lockers for employees to secure firearms at most, if not all, USCP divisions and offices.

USCP Directive [REDACTED] states, "Sworn employees will not discharge any firearm, nor use or handle any weapon, in a careless or imprudent manner. Sworn employees will carry, store, secure and/or use all firearms and weapons in accordance with applicable laws and the established procedures of the Department."

Compliance with Department Policies and Procedures

USCP had policies and procedures requiring that employees keep Department-issued weapons secured at all times. OIG did not note any exceptions with related guidance for controlling and securing firearms.

As shown in Table 2, from October 1, 2009, through May 20, 2015, USCP had 24 cases of stolen, lost, or unattended firearms. The Department investigated each of the 24 cases. Of the 24, the Department sustained 22 as violations of either USCP Directive [REDACTED] or USCP Directive [REDACTED]

In one case, the Department did not sustain the violation as the result of a burglary during which an employee's personal safe was stolen. That safe contained the Department-issued firearm. As of May 20, 2015, OPR has not completed its investigation of one case. In another case, OPR sustained the violation but suspended the case because the employee retired.

OPR concluded investigations of six cases, but as of May 20, 2015, the Department has not completed the discipline process. During our analysis period, the Department concluded investigations and the discipline process for 15 cases with sustained violations. For each of the 15 cases, the Department issued a suspension without pay with an average suspension length of approximately 5 days.

Table 2: Status of Stolen, Lost and Unattended Firearms Cases	
Case Status	Number of Cases
Investigation Complete, Violation Not Sustained	1
Under Investigation	1
Investigation Complete, Violation Sustained, Case Suspended	1
Investigation Complete, Violation Sustained, Disciplinary Process Not Completed	6
Investigation Complete, Violation Sustained, Disciplinary Process Complete	15
Total	24

Source: OIG generated based on data provided by OPR.

The CBA defines the purpose of discipline as “not solely to punish the employee, but to affect an employee’s behavior in ways positive for both the employee and the Department.” Our analysis revealed that the Department did not have any repeat offenders during the period. Employees must also reimburse the Department for any lost equipment including firearms.

According to a Department official, to address the recent events, the Chief is considering implementing 30-day suspensions for stolen, lost, or unattended firearms. An official stated that the Department is in the process of finalizing a new directive for discipline as well as developing a new table of penalties to cover all offenses. The new table of penalties would emphasize comparative cases and the employee’s record. The Department removed from the Speaker of the House’s protective detail the employee who left a firearm unattended in a restroom in the Office of the Speaker of the House.

The Department issued Bulletin [REDACTED] on May 21, 2015. The Bulletin announces that USCP’s Physical Skills Division Range Instructors must conduct a 30-minute briefing during handgun qualification cycles. In addition, sworn employees of the Department must attend the briefing when they report to the range for biannual (every 6 months) weapons qualification. The briefings are to emphasize the following topics:

- Authority/responsibility concerning issued weapons
- Issued weapons
- Proper and improper storage techniques for weapons
- Concealed carry
- Holster requirements
- Off-range safety, which includes case studies, a layered approach to securing and storing the employee’s issued weapon, and the safety of the employee’s family regarding his/her issued weapon

Bulletin [REDACTED], issued on May 29, 2015, announces the launching of an online training course for firearms safety by the Training Services Bureau. The Bulletin states that the training module is mandatory and sworn employees must complete the training no later than Friday, July 17, 2015.

USCP Disciplinary Process

The Department's discipline process must adhere to the CBA for employees in the collective bargaining unit. The Department's discipline process for employees exempt from CBA coverage typically mirrors the coverage afforded under the CBA in terms of process, except for representation by a Union Representative and the ability to grieve rather than appeal a penalty. The Department can initiate discipline in one of two ways once it receives a complaint for violations it determines to be serious in nature, such as an employee failing to properly handle, store or safeguard a weapon. If OPR receives the complaint or investigation first, the investigation takes place first, and if OPR sustains the charge it sends the case to a DRO for review and penalty recommendation. Once the Bureau Commander approves the penalty, a DRO completes a [REDACTED], and presents it to the employee. Alternatively, the disciplinary process can begin when the employee's supervisor completes a [REDACTED] and forwards it through the Chain of Command to the employee's Bureau Commander. The Bureau Commander then forwards the [REDACTED] to OPR for investigation. If OPR sustains the charge, it sends the matter to a DRO for review and penalty recommendation. The DRO then forwards the penalty recommendation to the Bureau Commander for approval. The Bureau Commander then returns the penalty recommendation to the DRO for presentation, or revision and subsequent presentation of the [REDACTED]

In these weapons cases, OPR has 60 days to complete its investigation of the allegations and recommend a disposition. OPR must determine the disposition as sustained, not sustained, unfounded, exonerated, or dismissed. If OPR sustains the violation, then it sends the report and supporting documentation for the investigation to OGC for the determination of a penalty recommendation.

DROs within OGC are responsible for recommending disciplinary penalties. The Department considers four main Douglas⁸ factors in particular when determining a penalty: the nature and seriousness of the offense, the employee's record, penalties imposed on other employees for the same or similar offenses within a 2-year period (or longer if necessary for non-bargaining unit employees), and any mitigating circumstances. When a DRO receives from OPR the report and supporting documentation for the investigation, the DRO requests information from OPR on similar cases in the last 2 years. The DRO prepares a penalty recommendation, in the form of a memorandum, containing an analysis of the case using the four Douglas factors and a recommended penalty. The DRO then sends the penalty recommendation to the Bureau Commander, who makes the final determination on the penalty recommendation.

⁸ The Merit Systems Protection Board in its decision, *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), established criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct.

The employee may contest the penalty to the ACOP or designee (through the Deputy Chief Administrative Officer) within 15 days of the presentation date. The submission must be in writing and signed by the employee and any designated representative. The ACOP or designee may interview anyone, including the employee, for clarification of facts. The ACOP must provide the final decision to the employee, in writing, within 20 working days. Following a written decision from the ACOP, the employee has 15 days from the date of service of the decision to file an appeal or grievance to the Chief—but not both. (Non-bargaining unit employees can only file an appeal.)

If the employee files a grievance to the Chief or designee, the parties must meet to discuss and attempt to resolve the grievance within 7 days. The Chief or designee must notify the FOP of the final decision within 7 days after the meeting. If the Chief denies the grievance, the reasons for the denial must be in a written response. The FOP may, within 30 days following receipt of final decision of the Chief or designee, notify the Chief that it desires to submit the matter to arbitration. (Non-bargaining unit employees cannot submit matters for arbitration.)

Conclusions

USCP had policies requiring that employees keep Department-issued firearms secured at all times. The Department complied with its guidance and responded to incidences of stolen, lost, and unattended firearms in accordance with policies, procedures, and disciplinary process. In addition, the Department developed additional training encompassing off-range firearms safety and security designed to prevent such future incidences.

Comparison to Other Law Enforcement Agencies

The Department's disciplinary policies, procedures, and penalties are comparable to the other Federal, state, and local law enforcement agencies reviewed as part of our analysis. USCP had a rate of stolen, lost, or unattended firearms lower than the rates of lost, stolen, or missing firearms reported in audits of other Federal law enforcement agencies.

Other Law Enforcement Agency Penalties

As previously noted, the Department issues a suspension without pay as a penalty for sustained cases of stolen, lost, or unattended firearms. From October 1, 2009, through May 20, 2015, the average length of the suspensions the Department issued was approximately 5 days. As shown in Table 3, the minimum penalty for a first-time violation of similar policies at other Federal, state, and local law enforcement ranged from verbal counseling to a 10-day suspension. The maximum penalty for a first-time violation ranged from a letter of reprimand to termination of employment.

Table 3: Other Law Enforcement Agency Penalties		
Agency	Violation	1st Offense Penalty
Federal		
U.S. Customs and Border Protection	Inappropriate storage, care, loss, or misplacement of a weapon or ammunition	Written reprimand to 14-day suspension
Amtrak Police Department	Safe use of weapons and department equipment	Command Discipline (Letter of Reprimand / Suspension 5 days or less)
U.S. Government Publishing Office Uniformed Police Branch	Inappropriate storage, care, loss, or misplacement of a weapon or ammunition	Letter of Warning – Removal
State		
Department of Maryland State Police	Failure to properly secure weapon in vehicle Failure to properly secure weapon at a MSP installation Failure to properly to secure weapon at home / residence	Loss of leave or suspension for 1 to 3 days; and/or transfer or reassignment; and/or fine of \$100 to \$150
Local		
Metropolitan Police Department of the District of Columbia	The use of, or negligent loss of a firearm, and/or radios, badges, or other Department-issued equipment	Suspension for 10 days to removal
Prince George’s County Police Department (Maryland)	Unattended or careless handling of firearms	\$100.00 - \$250.00 fine, or loss of 10-30 hours annual leave, or 10-30 hours of suspension without pay
Denver Police Department (Colorado)	Careless Handling of Firearms	2 Fined Days
East Haven Police Department (Connecticut)	Failure to secure firearm (on/off duty)	1-10 Day Suspension
Lansing Police Department (Michigan)	Officers shall carry firearms in accordance with law and Departmental procedures.	3-10 Day Suspension
Madison Police Department (Wisconsin)	Failure to ensure the security and safe storage of approved weapons. This applies both on and off duty.	<ul style="list-style-type: none"> • Verbal Counseling • Mediation • Documented Counseling • Letter of Reprimand (1st Level of Discipline)
Austin Police Department (Texas)	Violations of duty weapons policy	Written Reprimand to 1-3 days suspension

Source: OIG generated based on Internet research and data OPR provided.

Rates of Loss

To compare USCP's cases of stolen, lost, or unattended firearms with lost stolen or missing firearms reported in audits of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Federal Bureau of Investigation (FBI), and the Drug Enforcement Administration (DEA), we calculated rates of loss⁹ per 1,000 agents. As shown in Table 4, USCP's rate of stolen, lost, or unattended firearms during the 68-month period was actually lower than the rates of lost, stolen, or missing firearms reported in audits of the ATF, FBI and DEA.

Table 4: Rates of Loss Comparison				
Agency	ATF	FBI	DEA	USCP
Number of Officers/Agents	2,461	12,515	4,929	1,775 ¹⁰
Scope	10/1/02 to 8/31/07	2/1/02 to 9/30/05	1/1/02 to 6/30/07	10/1/09 to 5/20/15
Number of Months in Scope	59	44	66	68
Lost, Stolen, Missing or Unattended Firearms ¹¹	76	160	91	24
Rate per month per 1,000 Officers/Agents	0.52	0.29	0.28	0.20

Source: OIG generated the calculation for USCP using data that OPR provided. OIG obtained data and calculations for ATF, FBI and DEA from the Department of Justice Office of Inspector General Audit Reports 07-18, 08-21, and 08-29. Other law enforcement agencies OPR contacted on behalf of OIG would not provide data on lost, stolen, or missing firearms. The information in the table was the most recent numerical data OIG was able to obtain for comparison.

Conclusions

The Department's policies, procedures, and disciplinary actions were comparable to other law enforcement agencies. USCP had a rate of stolen, lost, or unattended firearms between October 1, 2009, and May 20, 2015, lower than the rates of lost, stolen, or missing firearms reported in audits for other Federal law enforcement agencies.

USCP was in the process of finalizing a new directive for discipline and developing a new table of penalties to cover all offenses, which will address the recent events. The Chief is considering increasing the length of suspensions for stolen, lost, or unattended firearms from 5 days to 30 days. The Department has already increased the scope of firearms safety training. Because the Department was in the process of implementing major changes related to disciplinary penalties, OIG did not make any recommendations.

⁹ To determine the losses reported per month per 1,000 agents, we first divided the number of total losses by the number of months of the reporting period to determine the number of losses per month. We then divided the losses per month by the number of total officers to determine the number of losses per month per officer. Then we multiplied the number of losses per month per officer by 1,000. For example, the rate for USCP was calculated as $\{(24/68)/1,775\} \times 1,000$.

¹⁰ USCP sworn staffing limited to 1,775 as of March 2015.

¹¹ The cases for USCP include firearms classified as stolen, lost, or unattended, while the cases for ATF, FBI, and DEA include firearms classified as lost, stolen, or missing.

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*United States Capitol Police
Attn: Office of Inspector General, Investigations
119 D Street, NE
Washington, DC 20510*



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