

LOS ANGELES POLICE COMMISSION

***REVIEW OF THE DEPARTMENT'S
COMPLAINT, FORM 1.28,
INVESTIGATIONS AUDIT, PHASE II
(Fiscal Year 2008/2009)***



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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June 29, 2009

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REVIEW OF THE DEPARTMENT'S COMPLAINT, FORM 1.28, INVESTIGATIONS
AUDIT, PHASE II, FISCAL YEAR 2008/2009**

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree (CD) Paragraph 135, reviewed the Department's Complaint, Form (CF) 1.28, Investigations Audit, Phase II (Audit) conducted by Internal Audits and Inspections Division (IAID). The Audit was completed in the third quarter of Fiscal Year (FY) 2008/2009 and received by the OIG on April 1, 2009. The OIG assessed the Audit's completeness, findings, and quality.

BACKGROUND ON THE DEPARTMENT'S AUDIT

This was the seventh Complaint Investigations Audit conducted by IAID. In order to increase the efficiency and effectiveness of the audit process, IAID performed their Audit in two separate phases. The Phase I Audit, issued in December 2008, evaluated various aspects of the complaint investigation process, including selection of investigators, initial assignment of complaints for investigation, and management of the complaint hotline.¹

The Phase II Audit evaluated the overall quality of complaint investigations and assessed the Los Angeles Police Department's (LAPD or Department) compliance with Consent Decree Paragraphs 74(h), 75(i, ii and iii), 77, 78, 80(a, b, c, d, e, f and g), 81(a, b and c), 82, 84, 85, 86, 90, 91, 101, and 129(b, c and d). IAID identified 298 Chain of Command (COC) and 225 Internal Affairs Group (IAG) complaint investigations and selected and audited a random sample of 47 COC investigations and 36 IAG investigations.² The investigations selected for the Audit closed during the month of October 2008. The Audit assessed compliance with 32 objectives (see Table No. 1 on Page No.3). All complaint investigations with the allegation types of Failure to Appear, Failure to Qualify, and Preventable Traffic Collision were excluded due to their lower risk.

This Complaint Investigations Audit was conducted in accordance with generally accepted government auditing standards. Those standards require that the Audit is planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions, based on the Audit's objectives. IAID has determined that the evidence obtained provides a reasonable basis for the findings and conclusions based on the Audit's objectives. The work was limited to those areas specified in the "Methodology" and "Detailed Findings" sections of the Audit.

¹ The OIG found the Complaint, Form 1.28, Investigations Audit, Phase I to be complete, conducted in a quality manner, and with its findings adequately supported.

² As mandated by Consent Decree Paragraphs 93 and 94, IAG investigates complaints with the high-risk allegation types of Unauthorized Force, Discrimination, Unlawful Search, Unlawful Seizure, Dishonesty, Domestic Violence, Improper Behavior Involving Drugs, Sexual Misconduct, Theft and Retaliation Against an Officer or Civilian.

IAID's findings in this Audit were categorized into the following two risk categories:

- *Moderate to High Risk* – Incidents that would result in inefficient operations, substandard service to the public, or that would expose the Department and/or City to adverse public criticism and/or liability.
- *Low Risk* – Incidents for which there was a lack of adherence to an administrative procedure or authorized standard.

The Audit measured 32 objectives. The Department met the 95 percent CD-compliance standard for 26 of the 32 objectives. The remaining six non-compliant objectives are indicated below:

- Objective No. 5(b) – Interviewing of Witnesses/Complainants;
- Objective No. 5(f) – Interview of All Supervisors in PSB Investigations;
- Objective No. 6(d) – Canvassing the Scene to Locate Witnesses in COC Investigations;
- Objective No. 14(a) – Completeness of Investigation File, Audio-Video Recordings;
- Objective No. 14(c) – Completeness of Audio/Video Files; and,
- Objective No. 15 – A Comparison of the Officer, Complainant, and Witness Statements.

Table No. 1 on page 3 provides a description of all 32 objectives tested and the related compliance percentages reported by IAID for the prior and current Complaint Investigations Audits. Table No. 2 on page 4 summarizes the six non-compliant (under 95 percent) objectives, sorted from lowest to highest non-compliance percentage for the current Audit.

TABLE NO. 1 - COMPLIANCE PERCENTAGES REPORTED BY IAID FOR ALL 32 OBJECTIVES

Objective No.	CD ¶	Description of Objective	Prior Audit FY 2007/08 Compliance Percentage	Current Audit FY 2008/09 Compliance Percentage
1.	74 (h)	PROHIBITION FROM ASKING OR REQUIRING COMPLAINANT TO SIGN WAIVER	95% (74/78)	100% (73/73)
2.		FILING OF COMPLAINTS		
(a)	75(i)	Failure to Inform any Civilian Indicating the Desire to File a Complaint of the Means by Which a Complaint May be Filed	99% (77/78)	100% (73/73)
(b)	75(ii)	Attempt to Dissuade a Civilian From Filing a Complaint	100% (79/79)	100% (73/73)
(c)	75(iii)	Failure to Accept a Complaint by an Officer Authorized to Do So	100% (79/79)	100% (75/75)
3.	77	NOTIFICATION TO THE DEPARTMENT OF OFFICERS ARRESTED, CRIMINALLY CHARGED, OR NAMED AS A PARTY IN ANY CIVIL SUIT INVOLVING ON-DUTY CONDUCT	100% (1/1)	100% (2/2)
4.	78	REQUIREMENT TO REPORT MISCONDUCT	96% (80/83)	100% (83/83)
5.		CONDUCT OF IAG INVESTIGATIONS		
(a)	80(a)	Tape Recording/Videotaping of Interviews	100% (31/31)	97% (31/32)
(b)	80(b)	Interviewing Witnesses/Complainants	88% (29/33)	88% (28/32)
(c)	80(b)	Interviewing Witnesses/Complainants at Convenient Sites and Times	100% (30/30)	100% (32/32)
(d)	80(c)	Prohibiting Group Interviews	100% (38/38)	100% (33/33)
(e)	80(d)	Notification of Involved Officers and their Supervisors	100% (33/33)	100% (29/29)
(f)	80(e)	Interviewing All Supervisors	78% (7/9)	71% (5/7)
(g)	80(f)	Collection and Preservation of Evidence	97% (29/30)	100% (20/20)
(h)	80(f)	Canvassing the Scene to Locate Witnesses	92% (35/38)	100% (32/32)
(i)	80(g)	Identify and Report All Inconsistencies	100% (38/38)	100% (36/36)
6.		CONDUCT OF COC INVESTIGATIONS		
(a)	81	Prohibition of Group Interviews	98% (46/47)	100% (46/46)
(b)	81	Interviewing All Supervisors	75% (6/8)	100% (10/10)
(c)	81	Collection and Preservation of Evidence	100% (32/32)	100% (23/23)
(d)	81	Canvassing the Scene to Locate Witnesses	91% (43/47)	88% (21/24)
7.	82	ADDITIONAL MISCONDUCT INVESTIGATIONS INITIATED OR ALLEGATIONS FRAMED³	100% (85/85)	95% (79/83)
8.		EVALUATING CREDIBILITY AND AUTOMATIC JUDGMENT OF INSUFFICIENT INFORMATION TO MAKE A CREDIBILITY DETERMINATION		
(a)	84	Appropriate Standards Used in Evaluating Credibility	100% (35/35)	100% (83/83)
(b)	84	Automatic Judgment of Insufficient Information to Make a Credibility Determination	100% (56/56)	100% (83/83)
9.	85	ADJUDICATION OF INVESTIGATIONS USING PREPONDERANCE OF EVIDENCE STANDARD	97% (59/61)	98% (81/83)
10.	86	INVESTIGATION OF WITHDRAWN, ANONYMOUSLY FILED, THIRD-PARTY COMPLAINTS	100% (4/4)	100% (16/16)
11.	90	DEPARTMENT MANAGER'S REVIEW OF ALL COMPLAINT INVESTIGATIONS	100% (24/24)	100% (23/23)
12.	91	DEPARTMENT NOTIFICATION OF RESOLUTION TO COMPLAINANT	96% (72/75)	97% (64/66)
13.	101	DEPARTMENT REFERRAL TO CRIMINAL PROSECUTORIAL AUTHORITIES OF ALL INCIDENTS INVOLVING OFFICERS WITH FACTS INDICATING CRIMINAL CONDUCT	50% (1/2)	100% (4/4)
14.		COMPLETENESS OF THE INVESTIGATION FILE		
(a)	129(b)	All Audio/Video Recordings Referenced in the File Were Retained and Provided	96% (69/72)	93% (69/74)
(b)	129(d)	Completeness of the Investigation File - Other than Audio/Video Recordings	100% (85/85)	100% (83/83)
(c)	129(d)	All Audio/Video Recordings Provided Had All Referenced Interviews Intact	93% (66/71)	94% (66/70)
15.	129(c)	COMPARISON OF OFFICER, COMPLAINANT, AND WITNESS STATEMENTS	91% (61/67)	88% (61/69)
16.	129(d)	ADEQUACY OF THE INVESTIGATION	95% (81/85)	96% (80/83)

³ This includes all misconduct that may have occurred other than misconduct already framed within the allegation(s).

TABLE NO. 2 - NON-COMPLIANT (<95%) OBJECTIVES REPORTED BY IAID, SORTED BY PERCENTAGE

Obj. No.	CD ¶	Description of Objective	Non-Compliance Percentage
5f	80(e)	IAG Investigations – Interviewing All Supervisors	71% (5/7)
5b	80(b)	IAG Investigations – Interviewing Witnesses/Complainants	88% (28/32)
6d	81	COC Investigations – Canvassing the Scene to Locate Witnesses	88% (21/24)
15	129(c)	Comparison of Officer, Complainant, and Witness Statements	88% (61/69)
14a	129(b)	Completeness of the Investigative File, Audio/Video Recordings	93% (69/74)
14c	129(d)	All Audio/Video Recordings Provided Had All Referenced Interviews Intact	94% (66/70)

THE OIG'S REVIEW METHODOLOGY

The OIG assessed the completeness, findings, and quality of IAID's Audit by reviewing the final Audit Report, Audit Work Plan, Audit work papers, and Microsoft Access database used to compile and analyze their Audit results.⁴ The OIG randomly selected and reviewed 13 (of the 47) COC investigations and 11 (of the 36) IAG investigations audited by IAID. For all 24 of these complaint investigations, the OIG re-performed the audit tests performed by IAID, which covered the 32 objectives. For these 24 investigations, in addition to the paper investigative files that were examined, there were 25 recorded interviews that were listened to and analyzed. In total, up to 44 individual audit tests were performed for each of the 24 investigations.

Note: Not all tests were applicable for all investigations.

On June 22, 2009, IAID concurred with the results of this review.

THE OIG'S REVIEW RESULTS

COMPLETENESS

To assess the Audit's completeness, the OIG reviewed IAID's Audit Report and supporting work papers to ensure all applicable Consent Decree mandates were assessed. The OIG noted that IAID selected a sample from a complete population.

Based on the OIG's review, the Audit sufficiently identified and assessed the requirements specified in the Consent Decree. Specifically, the Audit established objectives to evaluate and report on Paragraphs 74(h), 75(i, ii and iii), 77, 78, 80(a, b, c, d, e, f and g), 81(a, b and c), 82, 84, 85, 86, 90, 91, 101, and 129(b, c and d). Additionally, the OIG determined that IAID's sample was taken from a complete population.

⁴The OIG's review of supporting work papers was based on a randomly selected one-tail sample size calculation with a 95 percent confidence level, an expected error rate of six percent, and a plus-precision of seven percent.

FINDINGS

The OIG assessed the findings for the 24 randomly selected complaint investigations. The OIG performed this test work in order to provide assurance that IAID adequately identified and reported significant issues. IAID identified and reported issues relevant to the ongoing operations of the Department and the narratives of the Report supported all findings. The OIG's review noted one investigation, CF No. 07-004832, with unreported issues not assessed in the IAID Audit. Details are as follows:

Objective No. 7 - Additional Misconduct Investigations Initiated or Allegations Framed (CD ¶82) (IAID reported compliance of 95%)

Consent Decree ¶82 requires: *"If during the course of any investigation of a... complaint, the investigation officer has reason to believe that misconduct may have occurred other than that alleged by the complainant, the alleged victim of misconduct, or the triggering item or report, the investigating officer must notify a supervisor, and an additional Complaint Form 1.28 investigation of the additional misconduct issue shall be conducted."*

The complaint investigations were reviewed by IAID and the OIG to determine if all allegations made by the complainant were identified and framed, and if any additional/separate complaint investigations needed to be initiated.

Objective No. 15 - Comparison of Officer, Complainant, and Witness Statements (CD ¶129(c) (IAID reported compliance of 88%)

Consent Decree ¶129(c) requires: *"The LAPD shall conduct regular, periodic audits of random samples of...(iii) all Complaint Form 1.28 investigations. These audits shall assess... (c) a comparison of the officer, complainant, and witness statements with the investigator's summaries thereof, where applicable..."*

The complaint investigations and related recorded interviews were reviewed by IAID and the OIG to determine whether the written statements were accurately and completely summarized, with no inaccurate or omitted information that could have substantially impacted the investigation and related adjudication.

Background on CF No. 07-004832

This complaint investigation framed one Domestic Violence allegation made by the complainant, three Unbecoming Conduct allegations made by the co-complainant, and one Unbecoming Conduct allegation made by the Department.

According to the complaint allegation, the complainant had a previous dating relationship with an LAPD officer and together, they had a son. The complainant alleged that during their relationship, the complainant and the LAPD officer were involved in several arguments that resulted in the complainant being physically assaulted. The co-complainant, the son of the accused officer, alleged three separate incidents of physical abuse. The co-complainant alleged

that the accused officer struck him on the back of the head causing injury, struck him in the face and struck him on his forehead. The last allegation prompted a 9-1-1 call to an outside police department and resulted in the filing of an incident report by the agency.

The complaint was adjudicated with four of the allegations determined to be Unfounded, and one allegation determined to be Exonerated.

Unreported Issues for CF No. 07-004832 Pertaining to Objectives Nos. 7 and 15

The OIG noted that the complaint's summarized statement was incomplete which may have resulted in an unframed allegation. Specifically, the complainant stated in the audio-recorded interview that the accused officer had repeatedly made unwanted telephone calls in the middle of the night to the complainant. These telephone calls included obscene language directed at the complainant. Had this portion of the recorded statement been summarized, it may have resulted in an additional Unbecoming Conduct allegation being framed.⁵

Without the framing of the additional allegation, assessing a violation of the noted Penal Code section was not considered. Had this unframed allegation been included in the Audit, the reported compliance rate for Objective No. 7 would have decreased from 95% to 94%.

Additional Matter of TEAMS II record for CF No. 07-004832

Although not a required area of review by the Consent Decree Audit, the OIG noted that the TEAMS II record of the accused officer omitted this complaint investigation (CF No. 07-004832). Hence, this complaint investigation would not likely have been considered by supervisors and managers when assessing the officer for possible patterns of at-risk practices. The OIG communicated this concern to Internal Affairs Group and subsequently, the accused officer's TEAMS II record was updated to include this complaint.

QUALITY

Based on the OIG's review, the Audit was properly planned, performed, and supervised. In addition, the Audit Report properly delineated the Audit's objectives, scope, methodology, findings and recommendations, and it was written in a clear and concise manner. Furthermore, the Audit Report was issued timely (within a year of IAID's prior audit) and used a fair and unbiased tone.

⁵ California Penal Code 653m(a) provides that, "Every person who, with intent to annoy, telephones or makes contact by means of an electronic communication device with another and addresses to or about the other person any obscene language or addresses to the other person any threat to inflict injury to the person or property of the person addressed or any member of his or her family, is guilty of a misdemeanor." In addition, California Penal Code 653m(b) provides that "Every person who, with intent to annoy or harass, makes repeated telephone calls or makes repeated contact by means of an electronic communication device, or makes any combination of calls or contact, to another person is, whether or not conversation ensues from making the telephone call or contact by means of an electronic communication device, guilty of a misdemeanor."

CONCLUSION

In the OIG's review of a sample of 24 complaint investigations and the 25 related recorded interviews, the OIG found only one investigation that had two unreported issues involving two audit objectives and one additional matter. This is commendable considering that each investigation covered 32 audit objectives and included up to 44 audit tests. Hence, the OIG concludes that the Audit performed by IAID was complete, performed in a quality manner, and the Audit's findings were well supported. The Audit appears to have been thoughtfully planned, carefully executed and comprehensively reported.