

LOS ANGELES POLICE COMMISSION

***Review of the
Ethics Enforcement Section
Quarterly Report,
Second Quarter, 2008
(PUBLIC, OPEN SESSION)***



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF THE ETHICS ENFORCEMENT SECTION
QUARTERLY REPORT, SECOND QUARTER, 2008**

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree Paragraph 135, reviewed the Ethics Enforcement Section (EES) Quarterly Report, Second Quarter, 2008, and the associated audit packages to evaluate the completeness, quality, and findings of audits conducted by EES.

The Chief of Police signed the EES Quarterly Report on July 31, 2008, and the OIG received the Report on September 2, 2008.

BACKGROUND ON EES' INTEGRITY AND COMPLAINT INTAKE AUDITS

Consent Decree Paragraph 97 requires the Los Angeles Police Department (LAPD or Department) to conduct, specific and random, integrity audits to identify and investigate employees engaging in at-risk behavior (e.g., unlawful searches/seizures, excessive force, dishonesty, sexual misconduct, and discrimination). Additionally, the Paragraph requires the Department to conduct complaint intake audits to identify and investigate employees that either discourage or fail to take a complaint of misconduct.

For the Second Quarter of 2008, EES reported the results of 47 audits (14 integrity and 33 complaint intake). The table below delineates the classifications¹ of the 14 integrity audits.

CLASSIFICATION OF INTEGRITY AUDITS

BEHAVIOR TESTED	AUDIT TYPE	CLASSIFICATION
Discourtesy	Specific ²	Pass
Discourtesy/Unauthorized Force	Specific	Pass
Neglect of Duty	Specific	Pass-Substandard
Neglect of Duty	Specific	Fail – Administrative
Neglect of Duty	Random	Pass-Substandard
Neglect of Duty	Specific	Pass
Neglect of Duty	Specific	Pass
Neglect of Duty	Specific	Pass
Neglect of Duty	Specific	Pass
Theft	Special Operation	Pass
Theft/Neglect of Duty	Specific	Fail – Administrative
Unlawful Search	Random	Inconclusive
Unlawful Search	Random	Pass
Unlawful Seizure/False Arrest	Random	Attempt

¹ EES utilizes the following classifications for both integrity and complaint intake audits:

Pass – Meaning the employee's actions during the audit were proper, consistent with existing Department policy, and fell within the guidelines of state and federal law.

Pass-Substandard – Meaning the employee technically passed, but his or her conduct did not meet the Department's expectations for behavior performance.

Fail – Meaning the employee's conduct was improper and violated either criminal law or Department policy.

Inconclusive – Meaning there was insufficient evidence to support a conclusive finding.

Attempt – Meaning either a Department employee did not respond to the scenario, or the employee did not interact in a manner affording effective examination of the employee's conduct.

² A specific integrity audit is one that focuses on a particular employee. Typically, the audit request will come from Internal Affairs Group or the employee's commanding officer.

For the 33 complaint intake audits, EES classified 27 (82%) as Pass, four (12%) as Pass-Substandard, one (3%) as Fail and one (3%) as Inconclusive.

METHODOLOGY

As mandated by the Consent Decree, the OIG reviewed a sample of 31 EES audit packages (14 integrity and 17 complaint intake³) of the 47 audits (14 integrity and 33 complaint intake) conducted by EES. The audit packages were evaluated for completeness, quality, and findings. Typically, an audit package consists of a Final Report, an Operations Request, an Operational Plan, the undercover officer's (UC) statements, and video/audio recordings of the audit's execution.

On October 8, 2008, the OIG discussed the results of this review with EES management.

REVIEW RESULTS

COMPLETENESS

The EES Quarterly Report, Second Quarter, 2008, reported on the outcome of 47 audits. Based on the OIG's review, EES reported on a complete population. Ten audits remained open at the end of the second quarter, 2008. The OIG will continue to track the ten outstanding audits to ensure they are eventually completed and reported on by EES.

The OIG also evaluated 31 (14 integrity and 17 complaint intake audits) of the 47 audit packages to ensure the packages contained the Final Report, Operations Request, Operational Plan (when required), and any other pertinent documentation or evidence. The OIG determined all 31 audit packages were complete. However, it was noted that one Operational Plan was approved the same date as the integrity audit with no time documented to indicate if it was approved before or after the audit. Additionally, eight Final Reports were approved from 54 to 77 days after the audits were executed, with no justification as to the reason for the delay.⁴

QUALITY

To assess the quality of EES' audits for the second quarter of 2008, the OIG evaluated several aspects of the 31 audits (14 integrity and 17 complaint intake), particularly focusing on the design and execution of the audits. For 27 of the 31 of the audits, the OIG determined they were properly planned and executed. However, the OIG did identify concerns with the manner in which two specific integrity audits and four random telephonic complaint intake audits were conducted.

³ The OIG randomly selected a sample of complaint intake audits based on a 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.

⁴ During the closing meeting, EES management indicated that the delays were due to management staffing levels.

Integrity Audit Concerns

For one specific integrity audit classified as Pass, the UC was attempting to evaluate a specific officer's propensity to engage in discourtesy and excessive force. Based on the video recording, the audit location might have decreased the likelihood that the officer would exhibit the type of behavior EES was trying to evaluate. The OIG suggested that EES consider re-auditing this employee, and EES management agreed.

For one specific telephonic integrity audit classified as Pass, to evaluate whether the audited officer would take a crime report, a previous attempt to audit this officer was not documented in EES' Final Report. The audit was conducted again seven days later. EES noted in the Final Report that the audited officer will be re-audited in six months based on the officer possibly being aware that he/she was the focus of an integrity audit. The OIG believes that EES should have documented all audit attempts in the Final Report. EES management indicated that training has been given to EES staff regarding these concerns.

Complaint Intake Audit Concerns

For one random telephonic complaint intake audit classified as Pass, the UC called the Area Police Station and indicated that while the UC was driving at night, officers shined a spotlight in the UC's eyes for about 15 seconds. The Department employee who answered the telephone told the UC that there was no misconduct by the officers. The UC was then transferred to someone else who told the UC that officers shine the spotlight in everyone's eyes. The OIG believes that EES should have used a different scenario, so as to not leave any room for interpretation, as to whether or not the alleged act represented misconduct, and EES management agreed.

For three random telephonic complaint intake audits classified as Pass, the UC called back the Area Police Station a second time to make a complaint. As reported in the past, the OIG would have preferred for the UC either to wait on the line (if it is indicated to the UC that they will only have to hold for a few minutes) or for a telephone call from the Area Police Station, thereby truly testing the Area's proactiveness in accepting complaints.

FINDINGS

To assess the appropriateness of EES' audit classifications, the OIG evaluated a sample of 31 audits (14 integrity and 17 complaint intake) and evaluated the audits' Pass, Pass-Substandard, Fail Inconclusive, or Attempt classifications. For the following three complaint intake audits, the OIG disagreed with EES' Pass classification, believing Pass-Substandard to be a more appropriate classification.

- For one random telephonic complaint intake audit classified as Pass, as noted earlier in the report, the UC called the Area Police Station and indicated that while the UC was driving at night, officers shined a spotlight in the UC's eyes for about 15 seconds. The Department employee who answered the telephone told the UC that there was no misconduct by the officers. The UC was then transferred to someone else who told the UC that officers shine the spotlight in everyone's eyes. Additionally, during the telephone call, the UC was placed

on hold for approximately five minutes without anyone coming and checking on the UC.⁵ The OIG believes that based on the Audit's totality, it should have been classified as Pass-Substandard because of the long hold time, and because a certain Department employees should generally not be advising a public complainant that an alleged act is not misconduct, unless it is clearly one of the four stipulated exceptions as this could discourage the filing of a legitimate complaint.⁶

- For one random telephonic complaint intake audit, the OIG believes that a comment made to the UC by Area Police Station staff was inappropriate. Therefore the OIG believes that this audit should have been classified as Pass-Substandard. EES management agreed and indicated that they will re-classify this audit as Pass-Substandard and re-audit this employee.
- For one random telephonic complaint intake audit, EES noted in the Final Report that the UC's telephone number and a descriptor of the accused officer was omitted from the complaint facesheet. However, the OIG noted that the UC also gave several other descriptors of the accused officers, which were also not on the facesheet, and the UC stated his/her phone number twice. Therefore, the OIG believes that this audit should have been classified as Pass-Substandard.

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⁵ In the OIG's Supplemental Report on Ethics Enforcement Section Third and Fourth Quarter 2005 Complaint Intake Audits, the OIG deemed a threshold of three minutes to be an excessive amount of time to be placed on hold.

⁶ Department policy states that a complaint shall not be initiated when the sole reason consists of one or more of the following issues: 1) Disputed traffic citation; 2) Delay in service; 3) Low-flying airship; and, 4) Complaint by an inmate regarding accommodations, cell assignment, quantity of food, etc.

Closed Complaint Investigations

The OIG reviewed the status of open complaint investigations for the last two quarters and determined that nine had been closed. These complaint investigations were initiated as a result of EES audits that were classified as Fail. The table below provides information on the allegations, adjudication, and penalty, if applicable, of the closed complaint investigations as of September 18, 2008.

COMPLAINT INVESTIGATION RESULTS		
Period	Allegation(s)	Adjudication/Penalty
1 st Quarter, 2006	False Imprisonment/Neglect of Duty	1 st Officer – Unfounded/ No Misconduct
	False Statements/Discourtesy/False Imprisonment/Neglect of Duty	2 nd Officer – Sustained/Unfounded/ No Misconduct/Resignation
2 nd Quarter, 2006	Complaint Intake Failure/Neglect of Duty	Out of Statute
	Complaint Intake Failure/Neglect of Duty	Out of Statute
	False Statements/False Imprisonment	1 st Officer – Not Guilty 2 nd Officer – Sustained/Resignation
2 nd Quarter, 2007	Complaint Intake Failure/Neglect of Duty	Sustained/2-day Penalty
3 rd Quarter, 2007	Complaint Intake Failure/Neglect of Duty	Sustained/No Penalty
4 th Quarter, 2007	Complaint Intake Failure/Neglect of Duty	Sustained/Admonishment
	Complaint Intake Failure/Neglect of Duty	1 st Officer – Actions Could Be Different 2 nd Officer – No Misconduct
	Neglect of Duty/Dissuasion	Unfounded

OTHER RELATED MATTERS

Risk Evaluation Files

As reported in our fourth quarter 2007 review, the OIG expanded the scope of its review and evaluated all 2006 and 2007 Risk Evaluation files completed by EES. When EES receives a request to perform an audit on an employee, they may first evaluate whether they should conduct the audit. This evaluation, in which EES reviews an employee's work history, is called a Risk Evaluation. During this quarter's review, the OIG reviewed the completed Risk Evaluations for 2008 and noted no concerns.

CONCLUSION

Based on the OIG's review, overall, the audit packages were complete. The OIG identified one integrity audit where the OIG believes that the audit location might have decreased the likelihood that the officer would exhibit the type of behavior EES was trying to evaluate. For another integrity audit, the OIG noted that all audit attempts were not documented and that EES should have attempted to re-audit the employee rather than possibly making the officer aware that he/she was the focus of an integrity audit. For one random telephonic complaint intake audit classified as Pass, the OIG believes that EES could have used a different scenario so as not to leave room for interpretation as to whether or not the alleged act represented misconduct. Also, for three random telephonic complaint intake audits classified as Pass, the UC called back the Area Police Station a second time to make a complaint. As reported in the past, the OIG would have preferred for the UC either to wait on the line (if it is indicated that it will only be a few minutes) or for a telephone call from the Area Police Station, thereby truly testing the Area's proactiveness in accepting complaints. Additionally, the OIG disagreed with EES' Pass classification for three complaint intake audits and believed that Pass-Substandard would have been a more appropriate classification, which would have resulted in the audited employee's commanding officer being notified of substandard performance that occurred during the audit. That being said, the OIG did not identify any audits classified as Pass or Pass-Substandard that should have been classified as Fail.