

LOS ANGELES POLICE COMMISSION

*Review of the
Ethics Enforcement Section
Quarterly Report,
Third Quarter 2005*



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF THE ETHICS ENFORCEMENT SECTION
QUARTERLY REPORT, THIRD QUARTER 2005**

PURPOSE

Pursuant to Consent Decree paragraph 135, the Office of the Inspector General (OIG) reviewed the Ethics Enforcement Section (EES) Quarterly Report, Third Quarter 2005, and associated audit packages to evaluate the completeness, quality, and findings of EES audits conducted during that quarter.¹

The Chief of Police signed the EES report on October 28, 2005, and the OIG received the report on November 3, 2005.

This report has been revised to omit confidential and sensitive information.

BACKGROUND ON EES' "COMPLAINT INTAKE" AND "STING" AUDITS

Consent Decree paragraph 97 requires the Los Angeles Police Department (LAPD or Department) to conduct, targeted and random, "sting" 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.

Ethics Enforcement Section, part of Professional Standards Bureau, conducts these audits and submits their associated findings in a quarterly report format. During the third quarter of 2005, EES began using a new classification, "Pass-Substandard." This classification identifies audits in which an employee did not exhibit the "at-risk" behavior the audit was designed to test (e.g., the audited employee did not conduct an illegal search) but instead exhibited some other type of arguably lower-risk behavior that did not comply with Department policy and procedures (e.g., the employee was discourteous to the undercover officer). The OIG commends EES for this modification to the audit process.

The EES Quarterly Report, Third Quarter 2005, reported the results of 61 audits (47 "complaint intake" audits and 14 "sting" audits). Of the 47 "complaint intake" audits, the report indicated 41 audits were classified as "Pass," and six as "Fail." Of the 14 "sting" audits, the report indicated ten were classified as "Pass," two as "Inconclusive," and two as "Fail." The EES quarterly report did not differentiate between the "Pass" and "Pass-Substandard" categories; however, the Commanding Officer of EES indicated that future quarterly reports will present the number of "Pass" and "Pass-Substandard" audits separately.

¹ Unlike the majority of audits conducted by the Department, EES reports the results of its audits on a calendar year basis.

PRIOR RECOMMENDATIONS²

The OIG made six recommendations during its review of the EES Quarterly Report, Fourth Quarter 2004. All were adopted by the Department and the OIG concurs with the actions taken to address those recommendations. The status of the recommendations is discussed below.

RECOMMENDATIONS ADOPTED BY EES

The OIG recommended that the Commanding Officer of EES develop a formal procedure of notifying Commanding Officers of procedural failures not within the scope of EES' "sting" audits.

According to the Commanding Officer of EES, to avoid compromising the undercover officer's identity, the Bureau Commanding Officers, rather than the Area Commanding Officers, will be notified of substandard behavior by employees in their command. It is the Bureau Commanding Officer's responsibility to discuss the issue with the Area Commanding Officer or disclose the issue on a broader level during a monthly supervisor meeting.

The OIG recommended that the Commanding Officer of EES develop a formal procedure to document the extent of notifications made to an officer's Chain of Command for procedural failures.

According to the Commanding Officer of EES, notifications will now be detailed in the audit's final report or the investigator's chronological log.

The OIG recommended that future fourth quarter EES reports include a summary chart depicting audit results for geographic Areas and divisions over the last year.

According to the Commanding Officer of EES, their upcoming fourth quarter report will include an overview of audits conducted during that calendar year.

The OIG recommended that the Commanding Officer of EES review eight audits with procedural deficiencies, formally notify Department management of these issues, and request Department management to formally report all actions taken to the EES.

According to the Commanding Officer of EES, the Bureau Commanding Officer was notified of the procedural deficiencies. He further indicated that since EES does not track actions taken by Bureau Commanding Officers, a formal report of actions taken was not requested.

² To allow time for implementation, the OIG refrained from reporting on the status of recommendations made in its reviews of EES' first and second quarterly reports from 2005.

The OIG recommended that Professional Standards Bureau conduct an audit to determine whether there are any deficiencies with complaints coming into the Department via electronic mail, facsimile, telecommunications device for the deaf (TDD), or United States mail.

According to the Commanding Officer of EES, EES will conduct integrity audits via United States Postal Service, facsimile, email, and TDD.

The OIG recommended that the Commanding Officer of EES ensure all geographic Areas and traffic divisions receive random “complaint intake” audits and “sting” audits in 2005.

According to the Commanding Officer of EES, an annual schedule has been developed to address the concern related to “complaint intake” and “sting” audits. However, EES reserves the right to deviate from that schedule should the need for more critical “stings” arise.

Again we are pleased to see the Department be receptive and responsive to the OIG’s recommendations.

METHODOLOGY

The EES Quarterly Report, Third Quarter 2005, reported the results of 61 audits. The OIG reviewed a sample of 19 random “complaint intake” audits, one targeted “complaint intake” audit, and 13 “sting” audits related to “at-risk” behavior.³ To evaluate the completeness, quality, and findings of these audits, the OIG thoroughly reviewed the audit packages.⁴ Typically, an audit package consists of a Final Report, an Operations Request, an Operational Plan, the undercover officer’s notes or statements, and video/audio tapes.

On January 31, 2006, the OIG discussed the results of this review with the Commanding Officer of EES. At that time, he indicated general agreement with most of the OIG’s findings.

³ The OIG reviewed 20 of the 47 “complaint intake” audits completed by EES. Nineteen of the “complaint intake” audits were selected through a random sample (the sample size was calculated using a one-tail test with a 95 percent confidence level, an expected error rate of six percent, and a plus precision of seven percent). One “complaint intake” audit was added to the review since it was a targeted “complaint intake” audit. Due to risk management concerns, all “sting” audits are normally reviewed. However, for this review, the OIG opted not to evaluate one “sting” audit because it involved a surveillance of a non-Department employee. Although, EES’ quarterly report indicated it was a “sting” audit, it should have more appropriately been classified as a “special operation.”

⁴ The methodology used to evaluate each Audit is fully detailed in the OIG’s “Work Plan to Conduct Reviews of EES Audits.”

REVIEW RESULTS

COMPLETENESS

Completeness of the Population

The EES Quarterly Report, Third Quarter 2005, reported on the outcome of 61 audits. Although EES assigns sequential audit project numbers to each audit initiated, due to an audit's complexity, an audit may extend beyond one quarter, which results in EES reporting on audit projects that are out of sequence.

Based on the OIG's review of EES' audit tracking information, EES reported on a complete population for the third quarter of 2005. Of the three audits that were on-going since the second quarter, one had been completed and five that were initiated in the third quarter remained on-going. The OIG will continue to track these outstanding audits to ensure they are eventually completed and reported on by EES.

Completeness of the Audit Package

The 33 sampled audit packages were evaluated to ensure the packages contained a Final Report, Operations Request, Operational Plan (when required), and any other evidence required to be included in the package.

Based on the OIG's review, all 33 audit packages contained the Final Report and an Operations Request. However, the OIG identified the following completeness issues:

- Three targeted "sting" audit packages did not contain a TEAMS report for the audited employee. Nor was there any indication in the three packages that a TEAMS report for the audited employee had been reviewed. A TEAMS report contains additional details on the audited employee's work history which should be considered when planning a targeted "sting."
- Two walk-in "complaint intake" audit packages did not contain an Operational Plan. The Operational Plan delineates emergency and safety procedures should an unforeseen incident occur during the audit; however, since these "stings" took place at a police station, the concern is somewhat mitigated. Also, for the same two walk-in "complaint intake" audits, there were no statements made by the undercover officer to substantiate what transpired during the audit of the employee. Since the Department does not use audiotapes or videotapes for administrative audits, it is important for the undercover officer to prepare such statements.
- One targeted "complaint intake" audit for a specific officer used surveillance equipment; however, the audit package did not contain an approved authorization form. The OIG is

unclear why surveillance equipment was used for this audit since it was administrative in nature.

Conclusion

Except for the issues noted above, the EES Quarterly Report, Third Quarter 2005 and the associated audit packages were complete.

QUALITY

To assess the quality of EES' quarterly audits, the OIG evaluated several aspects of the 33 audits (20 "complaint intake" audits and 13 "sting" audits) sampled, particularly focusing on the design and execution of the audits.⁵ Based on the OIG's evaluation, a concern with one "sting" audit was identified. In that "sting," EES conducted the "sting" in front of a location with frequent public traffic determine whether a specific officer would conduct an unlawful search/seizure. However, given that there was a high volume of potential witnesses in the surrounding area, the OIG questions the effectiveness of the audit. The OIG suggests that EES re-sting this officer in a more conducive environment.

Although this concern did not cause the OIG to question the "Pass" classification, in situations where EES is conducting a "sting" due to concerns regarding a specific employee, it is preferable that consideration be given to the volume of potential witnesses at a potential "sting" location. This concern was also identified in the OIG's review of EES' last quarterly report. The Commanding Officer of EES indicated that "sting" audits conducted in 2006 would take the OIG's concern into consideration.

Conclusion

Except for the issue noted above, EES' audits were conducted in a quality matter.

FINDINGS

To assess EES' findings, the OIG evaluated the classifications of the 33 audits (20 "complaint intake" audits and 13 "sting" audits) sampled to determine whether any were clearly inaccurate or questionable due to an audit not affording the opportunity to truly evaluate the conduct of the audited employee. As such, the OIG evaluated the audits' "Pass," "Pass-Substandard," "Inconclusive," and/or "Fail" classifications.

Based on the OIG's review, concerns were identified with the classifications of three "complaint intake" audits and four "sting" audits. For three "sting" audits, the OIG disagreed with the "Pass" classification and felt that "Inconclusive" would be more appropriate. For the remaining four audits, one "sting" and three "complaint intake" audits, the OIG disagreed with the "Pass"

⁵ The OIG noted that eight Final Reports were approved beyond 45 days after the audit's execution date. Seven of the eight audit packages did not document any justification for the untimely approvals.

classification and felt “Pass-Substandard” would be more appropriate. No audits were identified in which the OIG believed a “Fail” classification was more appropriate.

“Complaint Intake” Audits

Recently, the OIG has raised the issue of the completeness and accuracy of complaint face sheets generated by audited employees as a result of a “complaint intake” audit. Since the OIG identified and reported this concern in November 2005, the OIG did not expect EES to identify the concerns mentioned below. However, the OIG believes three “complaint intake” audits, classified as “Pass,” should have been classified as “Pass-Substandard” because the audited employees omitted and/or inaccurately documented information on a complaint face sheet he/she generated after accepting a complaint from an undercover officer.⁶

According to the Commanding Officer of EES, EES now evaluates information on generated complaint face sheets to determine whether the audit should be classified as “Pass” or “Pass-Substandard.” Additionally, he indicated that EES is currently providing presentations at Bureau staff meetings to re-emphasize Department policies with regard to accepting and documenting complaints.

“Sting” Audits

There were four “sting” audits in which the OIG disagrees with EES’ “Pass” classification. The OIG believes that three of the audits should have been classified as “Inconclusive” since circumstances arose during the audits that prevented the opportunity to properly assess the targeted officers actions. For the fourth audit, the OIG believes that a “Pass-Substandard” classification would be more appropriate due to the officers actions and use of profanity toward the end of the audit.

Conclusion

Except for the issues noted above, EES’ findings were adequately supported.

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⁶ The audits would not be classified as a “Fail” because the audited employee generated a complaint face sheet based on information provided by the undercover officer.

OTHER RELATED MATTERS

CLOSED COMPLAINT INVESTIGATIONS

On January 19, 2006, the OIG reviewed the status of complaint investigations that were open as of last quarter that were initiated as a result of EES’ audits that were classified as “Fail.” Six had been closed. The chart below provides information on the adjudication and penalty (if applicable) of the closed complaint investigations.

CLOSED COMPLAINT INVESTIGATIONS

Period	Allegations	Adjudication/Penalty
1 st Qtr, 2004	Unbecoming Conduct Dishonesty False Statements Alcohol Related	Sustained – Resignation
2 nd Qtr, 2004	Complaint Intake Failure - (second offense for this employee)	Sustained – 5 days suspension
3 rd Qtr, 2005	Complaint Intake Failure	Sustained – Admonishment
	Complaint Intake Failure	Sustained – Counseling provided
	Neglect of Duty	Unfounded**
	Complaint intake failure	Sustained – Admonishment

* The original allegation was Unbecoming Conduct. Additional allegations were revealed as the complaint investigation progressed.

** This investigation was adjudicated as “Unfounded” because the investigation revealed that the employee (who was accused of leaving his/her assigned Area for over an hour and twenty minutes) obtained approval from his/her Watch Commander to assist with administrative duties.