

LOS ANGELES POLICE COMMISSION

COMPLAINT FORM 1.28
INVESTIGATIONS AUDIT



Conducted by

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

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OFFICE OF THE INSPECTOR GENERAL
AUDIT OF
COMPLAINT FORM 1.28 INVESTIGATIONS

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I. PURPOSE

Consent Decree Paragraph 136 requires the Office of the Inspector General (OIG) to conduct a regular, periodic audit and review of a stratified random sample of Complaint Form 1.28 investigations to assess the quality, completeness, and findings of the investigations. The review shall include a determination of whether the investigation was completed in a timely manner, summarized and transcribed statements accurately match the recorded statements, all available evidence was collected and analyzed, and whether the investigation was properly adjudicated.

II. PRIOR AUDITS

One of the primary responsibilities of the OIG, since its creation, has been to provide oversight of the Department's handling of complaints of misconduct by Department employees. As such, the OIG has reviewed all complaints of misconduct excluding Failures to Quality, Failures to Appear, and Preventable Traffic Collisions. Where anomalies were identified in a complaint investigation, this typically was addressed either via Intradepartmental Correspondence to the Department or to the Board of Police Commissioners, as appropriate. Since the adoption of the Consent Decree, this is the OIG's first audit of a stratified random sample of complaint investigations.

III. METHODOLOGY

The Objectives for the review of the Complaint Form 1.28 investigations were established based on the mandates of Consent Decree Paragraph 136. The OIG developed an Audit Work Plan, which includes the "Operational Definitions," "Standards" and "Measures" as they apply to each Objective and the analysis by which compliance was determined. These terms are described in the *Methodologies to Aid in Determination of Consent Decree Compliance, April 15, 2002*, provided by the Monitor.

Consent Decree – Paragraph 136

Consent Decree Paragraph 136 mandates the OIG review a stratified random sample of completed Complaint Form 1.28 investigations. Our review assessed the following, which, for purposes of this audit, were identified as Objectives Nos. 1 through 7.

1. Quality;
2. Completeness;
3. Investigative Findings;

4. A determination of whether the investigation was completed in a timely manner;
5. Whether summarized and transcribed statements accurately match the recorded statements;
6. Whether all available evidence was collected and analyzed; and,
7. Whether the investigation was properly adjudicated.

The audit examined the complaint investigation and all related documents, to include, but not limited to Sergeant Logs, Daily Field Activity Reports, arrest and use of force reports, photographs, and tape recordings of interviews for compliance with the mandates of Consent Decree Paragraphs 79, 80, 83, 84, 85, 86, 87, 91 and 93 as they relate to Paragraph 136 (See Appendix A for a summary of the mandates for each paragraph noted above.)

The OIG was unable to review the complaint investigations for compliance with Consent Decree Paragraphs 80(b) and (d) to determine if interviews of complainants and witnesses were conducted at a site and time convenient for them and if the Department notified an involved officer and their supervisor of complaints. The specific requirements of these paragraphs could not be determined as there was no documentation available to determine if the Investigating Officer (I/O) completed the requisite tasks.

Audit Division completed an Interim Summary Report of Complaint Investigations on April 30, 2003. In its report, Audit Division identified the inability to evaluate complaint investigations for compliance with Paragraph 80 (b) and (d) because the I/O did not document whether the specific requirements of the Consent Decree were addressed. The Department has made significant progress toward achieving Consent Decree compliance through the distribution of publications that provide guidance and procedures for personnel who conduct complaint investigations. Furthermore, Internal Affairs Group (IAG) has implemented positive controls to document and improve the Department's efforts in the personnel complaint process. In their Interim Summary Report of Complaint Investigations, Audit Division recommended the Department establish a method for documenting the requirements of Paragraph 80, and the OIG concurs with Audit that recommendation.

Recommendation:

- The OIG concurs with Audit Division's recommendation in their Interim Summary Report of Complaint Investigations that the Department establish a method for documenting the requirements of Paragraph 80 within the personnel complaint investigation format.

Note: The Review and Evaluation (R&E) Section, IAG, Newsletter, Fourth Quarter 2002 Updates, dated December 2002, delineates the requirements of Paragraph 80, to include documentation of a justification for not canvassing the scene of the incident under the Investigator's Note section; documentation determining whether a supervisor

was present during the incident; and, documentation on delays for completing the investigation. A checklist entitled “Consent Decree Checklist” was developed by IAG as a result of concerns identified in these audits to assist Department personnel in achieving compliance with these Consent Decree paragraphs.

Audit Population

Prior to selecting the audit population for this audit, the OIG developed criteria for categorizing complaint allegations as “High,” “Medium,” or “Low” priority. The allegations were ranked based on the severity of the allegation, impact on the community, and allegations with historically low sustained rates based on previous complaint reviews by the OIG.

The OIG identified its audit population to include all complaints that were initiated after November 1, 2001, and received by the OIG from November 1, 2002, through January 31, 2003.¹ Each complaint, depending on the allegation type, was categorized as a High, Medium, or Low priority case, and sequentially numbered within their allegation type (e.g., false imprisonment, retaliation, unbecoming conduct, etc.).² Complaints were then randomly selected from each category within their allegation type for first level review.³ A total of 213 complaint investigations were selected for first level review.⁴ Four of the 213 complaint investigations were deselected resulting in a total population of 209. One of the four complaint investigations was deselected because it was not available for review, two because IAG determined that the complaint investigations required a supplemental investigation, and the fourth because it was also selected for review as part of the OIG Review of Retaliation Complaints.⁵ The OIG was able to obtain an adequate sample of complaints investigated by Internal Affairs Group and complaints investigated by chain of command supervisors (Areas/divisions) to assess compliance with the mandates of Consent Decree Paragraph 79.

A separate list, which included all complaint investigations that were randomly selected for first level review, was created by category (High, Medium or Low) to identify the audit population for second level review.⁶ Each complaint investigation was sequentially numbered within its allegation type. Complaints were then randomly

¹ This audit period was selected to ensure the complaint investigations fell within the mandates of Special Order No. 36, 2001, which was published to address the mandates of the Consent Decree.

² Complaints that involved several allegations were included for possible selection under each allegation type within the appropriate category (High, Medium, or Low). Therefore, there were instances in which a complaint investigation was randomly selected more than once. For example, complaints which had allegations of False Imprisonment and Discourtesy might have been selected in the High Category level and in the Low Category level.

³ Fifty-nine percent of the total complaint investigations randomly selected for review were from the High category, forty-five percent from the Medium category and eight percent from the Low category.

⁴ First level review for the purpose of this audit means the review did **not** include a comparison of the tape recordings with the summarized statement as articulated in Paragraph 80 of the Consent Decree.

⁵ CF No. 02-1228 - The accused employee transferred to another City Department, which required the transfer of the personnel file containing the complaint investigation; CF Nos. 01-5590 and CF No. 02-2837 required a supplemental investigation; and 01-5250 is being reviewed as part of the OIG’s Review of Retaliation Complaints.

⁶ Second level review means that a comparison of the tape recording with the summarized statement was made.

selected from each category for second level review. A total of 118 complaint investigations were selected for second level review.

The auditors used a checklist consisting of 44 questions as a data collection instrument with a “crib sheet” supporting the checklist, to identify any anomalies associated with each complaint investigation. The anomalies were tabulated in a database for analysis and inclusion in this audit report.

Collection of Complaint Investigations and AudioTapes

Complaint Form 1.28 investigations were obtained from IAG. The tape recordings were initially requested from Scientific Investigation Division (SID). However, the OIG found that many of the tapes were not booked at SID and required follow-up with the appropriate I/O (See findings for Objective No. 2 for additional details).

Source Documentation

The following source documents were used to evaluate compliance with Department policy and procedure relative to the completion, investigation and adjudication of Complaint Form 1.28 investigations:

- Los Angeles Police Department Manual, 2001
- Complaint Investigations: A Guide For Supervisors, October 2000
- Los Angeles Police Department Management Guide to Discipline, January 2002
- Special Order No. 17, July 17, 2001 “Complaint Investigation Procedures- Revised”
- Administrative Order No. 12, August 29, 2001 “Investigating a Personnel Complaint and Evaluating Witness Credibility”
- Special Order No. 36, October 29, 2001 “Complaint Reporting Procedures- Revised”

IV. FINDINGS

Objective No. 1 – Quality

The quality of complaint investigations for the purpose of this audit was determined based on whether Department policy and procedure for investigating complaints was adhered to, as well as compliance with Consent Decree paragraphs 79, 80, 83, 84, 85, 86, 87, 91, and 93. The complaint investigations were further examined to determine if all available evidence was collected and analyzed; all tape-recorded interviews were accurately summarized; inconsistencies in witness statements were identified; the adjudication of each allegation was supported by the evidence; risk management issues, if any, were identified and appropriately handled by the Department; and, if the investigation was completed in a timely manner, taking into account the complexity of

the investigation, the availability of evidence and overriding or extenuating circumstances.⁷

The OIG reviewed a total of 209 complaint investigations, 74 of which were investigated by IAG, and 135 by the chain of command (Area/division) supervisors. The OIG determined that the overall quality of complaint investigations has improved since the implementation of Special Order No. 36, 2001, and other directives, which revised procedure for investigating complaints to address the mandates of the Consent Decree. The OIG noted, however, that there is no consistency by commanding officers in ensuring that the complaint investigations are completed in adherence with Department policy and procedure. Furthermore, R & E Section, which is tasked with reviewing completed complaint investigations for thoroughness and completeness, is also not consistent in identifying issues. For example, R & E staff does not consistently ensure all required documents and/or evidence is included in the investigation nor do they consistently ensure the final adjudication noted on the Forms 1.19 and 1.28 correspond with the adjudication noted in the Letter of Transmittal. These issues amount to either a lack of training or inability by the commanding officers follow Department policy and procedure for investigating complaints.

Audit Division's Interim Summary Report of Complaint Investigations indicates that many of the 59 case files they reviewed were incomplete and that the items most often missing were chronological logs, employee advisement forms and reply letters to complainants. Audit Division further noted that the chronological logs that were included in the files were not being completed as required by Department policy.

Recommendation:

- The OIG concurs with Audit Division's recommendation made in their Interim Summary Report of Complaint Investigations, that IAG develop a ready-reference checklist to be used by commanding officers and others in the personnel complaint review process as a standard for evaluating completeness and thoroughness of complaint investigations.

While, the OIG found that most investigations were thorough, several were found non-compliant with at least one paragraph of the Consent Decree. In particular, the OIG noted several cases that did not comply with the mandates of Paragraph 80 (e.g., interviews were not tape recorded, inconsistencies in witness statements were not addressed, evidence did not support the adjudication, etc.). No discernable patterns of complainants recanting their original complaints were identified (See Objectives 2 through 7 for detailed findings).

⁷ Consent Decree paragraph 87 indicates, "...the parties expect that, even after taking these circumstances into account, most investigations will be completed within five months."

Recommendation:

- The OIG concurs with Audit Division's recommendation made in their Interim Summary Report of Complaint Investigations Audit that IAG establish a method for documenting whether interviews of complainants and witnesses were held at a time, date and location convenient to them; that no group interviews were conducted; and, whether a scene was canvassed for witnesses and evidence.

The following provides a summary of the significant findings relative to this objective:

- Six complaint investigations involving allegations of unauthorized force, racial profiling or false imprisonment were inappropriately assigned for investigation to the Area/division instead of IAG as mandated by the Consent Decree.⁸
- Seven complaint investigations were not assigned the appropriate investigative Category Level, as required by Department policy and procedure (3/820.20). The allegations involving unlawful entry, discrimination, or unauthorized force were inappropriately investigated as other than a Category 1. The complaints fell within the definition of a Category 1 based on the seriousness of the alleged misconduct and/or the complexity of the investigation required to resolve the matter.
- Eighty-nine of the complaint investigations did not include a copy of a reply letter sent to the complainant acknowledging receipt of the complaint and providing the complainant with the CF No. All 89 of the complaint investigation Case Progress Logs indicated a reply letter was sent; however, a copy was not maintained in the file. Of note, one case file indicated a reply letter had been sent, yet the complainant was anonymous making that virtually impossible (CF No. 02-2500).
- Consistent with Consent Decree Paragraph 83, IAG personnel investigating complaints took into account TEAMS reports, which document training information, discipline history and pending Complaint form 1.28 investigations. The OIG could not determine if IAG personnel utilized employee performance evaluations when investigating complaints.
- **C.F. No. 01-5456** – This investigation was non-compliant with Consent Decree Paragraph 91, which requires the complainant to be informed of the resolution in writing. This investigation was initiated as a result of a lawsuit and alleges false arrest and planting of evidence. The OIG determined that the reply letter sent to the complainant did not provide the correct information. The letter indicates that the Department thoroughly investigated the allegations of misconduct, including interviews with all concerned parties, when in fact the investigation was closed as

⁸ The OIG took into account the date the investigation was assigned and the date of the notices published by Internal Affairs Group indicating the effective date that IAG would assume investigative responsibility for complaints enumerated in Paragraphs 93 of the Consent Decree.

Insufficient Evidence to Adjudicate because the I/O was unable to interview the complainant and the accused officers. The complainant's attorney did not make him available and the accused officers did not make themselves available for an interview.⁹ The OIG requested that the Department revise the complainant's letter to correct the discrepancy and to provide the complainant with accurate information.

The OIG received correspondence dated July 30, 2003, from IAG concurring with the OIG's assessment. Consequently, a revised reply letter was drafted and promptly mailed to the complainant. Furthermore, IAG sent correspondence to Operations-Central Bureau requesting that this concern be properly addressed through additional training.

- The OIG determined that the I/Os used reasonable efforts to investigate complaints that were filed anonymously to determine if they could be corroborated.
- Several administrative errors were identified on the Complaint Forms. For example, the OIG noted that some complaint investigation do not include the date the Complaint Form was completed, the signature of the supervisor reporting, or the final adjudication was not noted in the "Adjudication" section of 1.28 face sheet (See Appendix B for detailed findings).

The OIG identified the following issues that were specific to individual complaint investigations:

- **CF No. 02-1195** – This complaint involves an allegation of false arrest, unauthorized tactics, violation of civil rights and unauthorized force. The OIG determined that the investigation was not complete and did not address the allegation of unauthorized force and returned the investigation to IAG for appropriate action.

The OIG received correspondence dated August 6, 2003, from IAG. Considering the standard California Jury Instructions Code mandated by the Consent Decree relative to assessing credibility, IAG determined that the complainant's version of the incident was not supported by the preponderance of the evidence. Furthermore, the complainant failed to cooperate with the I/Os by repeatedly refusing to be interviewed. Moreover, IAG determined that the complainant's use of the word "brutalized," was to describe the complainant's perception of the manner in which was treated as opposed to describing a specific act of force. At no time did the complainant allege any acts of unauthorized force. The OIG reviewed the video recording of the incident and concurs with IAG's ultimate finding.

⁹ Prior to the investigation, two of the accused officers had been terminated by the Department on a different case, and two officers were on relieved from duty status.

- **CF No. 01-5216** – This complaint involves an allegation of unauthorized force. The complainant alleged that one or possibly two officers struck him in the face with their fist as they attempted to arrest him. Per the investigation, the sergeant who responded to the incident after the suspect had been arrested was informed by an officer of the suspect’s allegation. Per the investigation, the sergeant stated that he believed the suspect had recanted the allegation and further stated that he did not see any visible injuries on the suspect. The OIG determined that the investigation did not fully address the sergeant’s actions based on the fact that the photos of the suspect reflected an injury over his right eyebrow and the Letter of Transmittal referred to the suspect having recanted, yet that specific information was not contained within the suspect’s paraphrased statement. The OIG has returned the investigation to IAG to determine if an allegation should be added against the sergeant for neglect of duty and to address the discrepancies noted.

The OIG received correspondence dated September 11, 2003, from Internal Affairs Administrative Division (IAAD), in which the Department determined that the sergeant failed to conduct a thorough supervisory investigation to determine whether a Use of Force occurred and that the complainant did not recant his allegations of Unauthorized Force. Since the statute of limitations has expired in this case, the Department provided training to the involved sergeant. The OIG concurs with the action taken.

- **CF No. 02-0475** – This complaint involves an allegation of unbecoming conduct and unlawful search. The OIG determined that the interview of the complainant was only partially tape-recorded; thereby the OIG could not completely verify the accuracy of the complainant’s statement. Furthermore, the OIG is concerned with some of the questions by the I/O, which gave the appearance of prejudging the evidence. For example, the I/O asked the officer, “How do you feel about this kind of complaint made against you? I mean are you happy that you have a complaint made against you, when you’re obviously not guilty?”
- **CF No. 01-5400** – This investigation was initiated after a Claim for Damages was filed alleging unlawful search, unlawful arrest, unauthorized tactics and unauthorized force. The complainant specifically referenced being “hog-tied” during the incident. The OIG determined that the I/O did not clarify the fact that the arrest report incorrectly indicates that the complainant was placed in a Total Appendage Restraint Position (TARP) for officer safety, when in fact, a hobble device was used on the complainant. This is significant because the use of a TARP is expressly prohibited and the use of a hobble is not. Moreover, whenever a hobble device is used to overcome resistance, its use is considered a reportable use of force. In this case, the I/O did not clarify that a hobble device was used, and the terms TARP and hobble were used interchangeably throughout the investigation. Although the OIG concurs with the ultimate conclusion that there was no misconduct involved in the arrest, correspondence was sent to the Department to take appropriate action to clarify that the suspect was not TARPed and that they further consider training all employees

involved in the writing and reviewing of the arrest report, including the I/O, that TARP is a violation of Department policy and should not be used as a term to indicate that a person was hobbled.

The OIG received correspondence dated August 5, 2003, from IAG, indicating that a need for training was identified regarding this issue and correspondence was forwarded to the Chief Investigator, IAG, and the Commanding Officer, Operations-South Bureau, to address the training issues identified by the OIG's audit.

- **CF No. 02-0084** - This complaint involves an allegation of unauthorized force. The complainant alleges that the officer unnecessarily forced his head to the ground prior to handcuffing him and dragged him on the ground by his handcuffs when he was arrested for burglary. After reviewing the complaint investigation, which included a review of the tape-recorded interviews, the OIG opines that the I/O did not properly address the allegations of misconduct and the adjudicator's rationale noted in the Letter of Transmittal (LOT) is not supported by the evidence. The I/O did not focus on the allegations of misconduct, but rather on the complainant's involvement in the burglary. The LOT references two witnesses who "observed the incident" as part of the adjudicator's rationale, stating that both witnesses refute the allegations of unauthorized force and both witnesses' accounts were identical to the officers present at the scene. The OIG determined that one of the witnesses did not actually see the suspect handcuffed or when the suspect was raised to his feet.

Furthermore, the OIG is concerned that the arrest report indicates that the suspect was treated for abrasions to both of his knees and a swollen right hand, which a medical doctor diagnosed as a fractured right thumb, and the investigation does not address this issue. The OIG also noted a possible Miranda violation. The I/O asked the suspect about his involvement in the burglary. The suspect indicated he was not involved, but the I/O continued to ask questions related to the crime. The OIG determined that the complaint investigation did not address all of the issues noted above and has forwarded correspondence to IAG for appropriate action.

The OIG received correspondence dated September 10, 2003, from IAAD. The issue involving whether the I/O (Lieutenant) appropriately investigated the complaint allegation, IAAD determined that the I/O inappropriately asked questions regarding Norton's criminal activity in an apparent attempt to probe his credibility. This issue will be addressed by providing training to the Lieutenant. Per IAAD, the issue whether the arresting officers caused injury to the suspect's thumb could not be further investigated because the suspect did not make himself available for an interview. However, per IAAD there is no evidence in the investigation to support the suspect's account of how the injuries occurred. Finally, the Department agreed with the OIG that the adjudicator of the complaint inappropriately attributed to one of the witnesses an assertion that he did not make. A failure by the I/O to tape record the witness interview was also identified by IAAD and correspondence was sent to

the Commanding Officer, Operations-Valley Bureau to address these issues and provided appropriate training to the Lieutenant.

- **CF No. 02-0176** – This complainant alleges that an officer was discourteous with him when threatening to call Immigration on him if he did not provide the officer with accurate information. As a result of the review of the tape recording of the complainant's interview, the OIG opined that the I/O did not follow Department policy (Section 1/390) when questioning the complainant about his allegations of misconduct. The I/O asked more questions regarding the immigration status of the complainant and how he entered the U.S, than in investigating the alleged acts of misconduct. The OIG did not believe the I/O's behavior amounted to misconduct, however the OIG did send correspondence to IAG recommending training for the I/O. The OIG received correspondence dated September 17, 2003, from IAAD, in which they identified several training issues pertaining to the interview techniques utilized by the I/O. However, the I/O has since retired from the Department.
- **CF No. 01-5638** – This complainant alleges that officers entered her property without permission, unnecessarily ordered her out of her residence and searched it, officers were discourteous, kicked her dog, failed to release her in a timely manner and failed to identify themselves and leave a business card. The OIG determined that the allegation that the officers did not identify themselves nor did they leave a business card after detaining the complainant was not addressed by the investigation and sent correspondence to IAG regarding the issue. The OIG received correspondence dated July 24, 2003, from IAG, concurring with the OIG's assessment that the investigation failed to address the issues identified by our audit. However, IAG noted that considering the lapse of time (December 12, 2001) and the complexity of the case, launching a supplemental investigation would be unproductive. Correspondence was forwarded to the Commanding Officer, Operations-Central Bureau, directing that training be provided to the responding supervisor and the I/O. The OIG concurs with IAG's determinations.

The OIG determined that some of the issues identified in this audit have already been addressed through various directives published by the Department to change and/or improve procedure relative to complaint investigations. The OIG's second audit of Complaint Form 1.28 investigations will incorporate complaint investigations that fall within the procedures of the new complaint system.

Objective No. 2 - Completeness

An assessment for Completeness of complaint investigations for the purpose of this audit was based on factors delineated in the Consent Decree as well as various Department Manual provisions relative to complaint investigations.¹⁰

¹⁰ Department Manual Sections 3/820.05, Investigating a Complaint, and 3/825, Maintenance of Personnel Complaint Envelope.

The following provides a summary of the significant findings relative to this objective:

- The OIG found that a lack of documentation made it difficult for the OIG to access whether or not certain procedures or protocols are being followed. For instance, the OIG was unable to determine whether scenes were canvassed and whether interviews of complainants and witnesses were held at dates, times and locations convenient to them.
- The OIG noted that some complaint investigations did not fully comply with Department Manual Section 3/820.05, which requires that the I/O identify and interview all involved employees. Although the I/O identified the involved employees, in some instances the I/O did not interview the employee because he/she was either on vacation or off duty with an injury. In light of the fact that the investigations in question usually took more than five months to complete, the OIG believes the I/O had ample time to ensure an interview was conducted of the involved employee(s).
- In reviewing the complaint investigations, there were eight instances where the auditor could not determine if group interviews were conducted because the date, time and location of the interviews were not noted. The OIG identified four instances in which civilian witnesses were interviewed as a group. The OIG did not identify any instances in which officers were interviewed as a group (See Appendix D for detailed findings).
- Sixty-eight of the complaint face sheets were not filled out completely. In some instances the “Date Complaint Form Completed” field was missing, as was the signature of the supervisor approving the complaint and the final adjudication was incorrectly checked off on the face sheet as “Exonerated” instead of “Not Resolved.”
- In four complaint investigations, the Complaint Statistical Information, Form 1.19, either did not include all of the allegations or provided an inaccurate final allegation and/or adjudication. This form is used by the Department to document complaints in employee TEAMS reports. The OIG indicated discrepancies in the Case Progress Log for IAG to correct (See Appendix B for detailed findings).
- All supervisors identified as being present at the scene of an activity that resulted in a personnel complaint were interviewed and no issues were identified.

The OIG selected 118¹¹ complaint investigations for tape review and determined the following relative to Paragraph 80(f) of the Consent Decree

¹¹ 119 were initially selected, however one of the investigations was deselected and reviewed under the Retaliation audit.

- Twenty-four complaint investigations contained interviews that were not tape-recorded.
- Two complaint investigations contained interviews with invalid tape numbers and/or lost tapes.
- Twenty-one complaint investigations contained tape-recorded interviews that were not submitted to SID for storage as required by Department Manual Section 3/825. The total number of tapes not booked at SID was 34. The following provides a breakdown of the total number of tapes by investigative command that were not booked at SID:

Investigative Command	# of Tapes
77 th Street	3
Southwest	1
Central	3
Northeast	1
West L.A.	1
Wilshire	3
Devonshire	2
Foothill	1
Van Nuys	4
Juvenile Division	1
Metropolitan Division	1
Internal Affairs Group	13
Total	34

Recommendation:

- The OIG recommends that a system be established to ensure that tapes utilized for complaint investigations are submitted to SID for storage as required by Department Manual Section 3/825.

Objective No. 3 – Investigative Findings

The OIG’s determination of the overall Investigation Findings was based on an assessment of each investigation to determine if all required documentation, witness statements and/or evidence supported the findings of the investigation.

The following provides a summary of the significant findings relative to this objective:

- The OIG found that overall, the investigations were thorough and the evidence supported the adjudication of each allegation. Furthermore, most complaint investigations usually included all required documentation, with the exception of those noted in this audit, and I/Os used sound investigative techniques. In those cases where a penalty was imposed, the OIG did not identify any issue relative to the fairness of the penalty. The officer's discipline history was appropriately taken into account in most cases, as was the complainant's criminal history.
- The OIG identified two complaint investigations that involved the same partner officers assigned to the same command who had noticeable personnel complaint histories with less than 6 years on the job. One of the officers had already been identified by his commanding officer and referred to the Risk Management Executive Committee (RMEC). That particular officer was referred to RMEC when he had accumulated 10 complaints and has now accumulated a total of 26 complaints¹². The other officer identified has a total of 16 complaints and has been referred to RMEC by the OIG as a result of this audit.

Recommendation:

See recommendations made under the Objective - Quality.

Objective No. 4 - Timeliness

The assessment of Timeliness was based on an evaluation of the length of time taken to complete a complaint investigation. Timeliness of the investigation was defined as compliance with the requirements established by the Department and Consent Decree Paragraphs 79 and 87, relative to timely assignment and completion of complaint investigations. Paragraph 87 of the Consent Decree defines the time period in which most investigations must be completed. Taking into consideration an investigation's complexity, the availability of evidence or other extenuating circumstances, the Department is required to complete most investigations within five months.

The following provides a summary of the significant findings relative to this objective:

- Paragraph 79 of the Consent Decree requires the Department to document and forward all complaint face sheets to IAG for review and investigative assignment, within ten days of receipt, pursuant to paragraphs 93, 94, and 95. The OIG determined that complaint face sheets for 32¹³ (15%) of the 209 complaint

¹²This officer went before RMEC early this year, which recommended performance evaluations every six months, a referral to Behavioral Sciences Section and reassignment to a non-law enforcement type of assignment.

¹³ Three of the complaint investigations (CF No. 02-2176, 02-0403 and 02-0413) were initiated as a result of a use of force.

investigations reviewed were received by IAG beyond 10 days. This translates into a compliance rate of 84%.

Note: The OIG is aware that the compliance rate, as of the date of this writing, has improved significantly and the Department continues to work to achieve compliance in this area.

- Of the 209 complaint investigations, 137 were not completed within five months as required by Consent Decree Paragraph 87. Furthermore, the OIG did not find documentation within the complaint investigations that provided a reason for the delay in the investigation. Internal Affairs Group investigated 74 of the 209, forty-six (62%) of which were completed beyond five months. Chain of command (Area/division) supervisors investigated 135 of the 209 investigations selected for review, ninety-one (67%) of which were completed beyond five months.

Recommendation:

See recommendations made under the Objective – Quality.

Note: The lack of documentation in the complaint investigations regarding a delay in completing the complaint investigation has been addressed by the Department through Administrative Order No 5, 2002. Furthermore, the R & E Newsletter, Fourth Quarter 2002 Update, dated December 2002, indicates that all significant delays including administrative delays should be appropriately recorded in the Chronological Log to facilitate a proper review.

Objective No. 5 - Summarized and Transcribed Statements

Assessment of the accuracy of summarized and transcribed statements of tape-recorded interviews was defined as the inclusion of all relevant statements from the recorded interview in the summarized statement.

The OIG identified instances in which the interview statements were not accurately transcribed. This included pertinent information being omitted from a witness' paraphrased statement as well as witness statements being embellished. Additionally, incorrect dates and/or times were noted on the statements. However, the issues identified would not have changed the outcome of the investigations. The adjudicating commanding officer and R&E Section personnel would not have been able to note these discrepancies without listening to the tape recordings (See Appendix C for detailed findings).

Recommendation:

- The OIG recommends that the Department direct commanding officers to conduct periodic audits of tape-recordings of complainant, accused, and witness interviews to ensure that the paraphrasing is accurate and to identify any issues relative to additional training for I/Os on interview techniques, etc.

Objective No. 6 - Evidence Collected and Analyzed

Some of the specific procedures mandated by the Consent Decree could not be determined, as there was little to no documentation available to determine compliance. For example, the OIG could not determine the convenience of interviews and whether scenes were canvassed. In some instances, the use of group interviews was also difficult to determine. However, the OIG did note instances in which the I/O noted that the complainant did not want the interview to be held at the complainant's home, in which case the I/O made arrangements for the interview to be held at the station or another location. Furthermore, accused and witness employees are being interviewed during their assigned watch, so they too are being accommodated. Based on this, it appears that an effort is being made by the Department to accommodate complainants and witnesses. Audit Division noted in their Interim Report of Complaint Investigations Audit that they surveyed 20 randomly selected complainants and witnesses, 15 of which recalled being interviewed at a time, date and location convenient to them. The other five could not recall being interviewed. The OIG did not confirm Audit Division's finding.

The following provides a summary of the significant findings identified by the OIG relative to this objective:

- The I/O did not record one or more of the involved parties' interviews in twenty-four of the complaint investigations selected for tape review that met the criteria for recording interviews.
- Four complaints with witnesses whom the OIG believed were relevant to the complaint investigation were not interviewed (See Appendix E for detailed findings).
- The OIG could not determine whether a supervisor canvassed a scene for witnesses or evidence because this was not documented in any of the investigations.
- Two complaint investigations noted the tape number of the tape used for the interview, but upon our request the I/O was unable to locate the tape and it was never booked at SID.
- In cases where a supervisor was identified as having been at the scene of an incident, he/she was appropriately interviewed.

The OIG found that most investigations generally contained interviews of the complainant, the accused employee, and relevant witnesses, and the investigations contained evidence to support the adjudication.

Recommendation:

See recommendations made in the Objective - Quality.

Objective No. 7 - Adjudication

The Consent Decree mandates that misconduct complaints be adjudicated in a fair, timely and consistent fashion. The adjudication process begins when the commanding officer makes a recommendation for appropriate disciplinary action, which is forwarded up the chain of command to the Chief of Police for final determination. Several Consent Decree paragraphs 84, 85 and 86 along with the Management Guide to Discipline dated January 2002, served as the foundation by which we conducted our review.

The OIG reviewed the 209 complaint investigations to ensure compliance with the mandates of the Consent Decree Paragraphs 84, 85, and 86 and Department policy and procedure relative to adjudication of complaints.

The following provides a summary of the significant findings relative to this objective:

- The OIG determined that the preponderance of the evidence standard was used when adjudicating complaint investigations. The I/O gathered sufficient information to adjudicate the investigation as required by Paragraph 85. Furthermore, the Department adjudicated each complaint investigation using one of the seven classifications identified in the Consent Decree (e.g., Sustained, Not Resolved, Unfounded, etc.). There were instances in which the complaint was appropriately adjudicated as Insufficient Evidence to Adjudicate, Other Judicial Review, and Policy/Procedure.
- Twenty-three of the complaint investigations were adjudicated as Insufficient Evidence to Adjudicate; eleven were adjudicated as No Department Employee; and, seven were adjudicated as Other Judicial Review. The OIG did not identify any issues relative to the appropriateness of those adjudications.
- **CF No. 01-5135** - The OIG did not agree with the “Sustained” adjudication in one complaint investigation. In this instance, correspondence was sent to the Commanding Officer, IAG, delineating the rationale for the OIG’s opinion that the complaint investigation supported a “Not Resolved” adjudication.

Correspondence dated August 12, 2003 was received from IAAD, concurring with the OIG’s findings that the complaint investigation supported an adjudication of “Not Resolved”. Correspondence was sent from IAAD to the Commanding Officer,

Operations- South Bureau informing them of the findings and to notify the involved employee.

- The OIG determined that complaints falling within the mandates of Paragraph 86, which states that the withdrawal of a complaint, unavailability of a complainant to make a statement or the fact that the complaint was filed anonymously or by a person other than the victim of misconduct shall not be the basis for adjudicating a complaint without further attempt at investigation. The OIG did not identify any complaints in which a thorough investigation was not conducted and further determined that the I/O made reasonable efforts to determine whether the complaint allegations could be corroborated.

Recommendation:

See recommendations made under the Objective - Quality.

V. POST AUDIT MEETING WITH PROFESSIONAL STANDARDS BUREAU (PSB)

A post-audit meeting was not necessary as the issues that were identified through this audit were immediately addressed via correspondence to either the Commanding Officer of Internal Affairs Group or Professional Standards Bureau. Furthermore, Audit Division's Interim Summary Report of Complaint Investigations, which was released to Department personnel, identified similar issues identified through this audit.

VI. CONCLUSION

The Department has made significant progress toward improving the management of personnel complaints by instituting control systems to monitor compliance with the mandates of the Consent Decree, as well as revisions to the complaint process. These changes will allow future audits to more accurately measure the Department's compliance with the Consent Decree. Some of the changes involve a revision to the complaint process that will allow the Department to track complaint investigations to ensure timeliness of the investigations. In addition, IAG developed a database that will alert them when specific time intervals related to the timeliness of the investigation have been reached, which will prompt a status update from the assigned entity. Internal Affairs Group will then send correspondence to the assigned entities to advise them of the approaching due dates and to determine the status of the investigations. The database will enhance IAG's ability to assign and track cases through the investigative and adjudication process. The Department further revised its procedure requiring commanding officers to prepare correspondence to the Complainant providing them with a status update of their complaint and that a copy be forwarded to IAG. Furthermore, the Department published "Guidelines for Accepting Public Complaints," which solidifies

employee and supervisor responsibilities and addresses the mandates of Paragraph 80 of the Consent Decree.

Although Special Order No. 36, 2001, was the Department's first attempt at revising policy and procedure to comply with the Consent Decree, the OIG found that the complaint investigations were not conducted and/or completed in a manner that would fully address the mandates of the Consent Decree. Specifically, the investigations did not capture information, such as whether a scene was canvassed for witnesses and evidence, whether interviews of complainants and witnesses were conducted at times and sites convenient to them, whether group interviews were conducted, etc. The complaint investigations reviewed by the OIG for this audit fell within the mandates of Special Order No. 36. The OIG opines that revisions to existing policy and procedure relative to the Complaint Process (Special Order No. 1, 2003, Administrative Order No. 5, 2002, and other various Notices) will address the deficiencies identified in this audit. The revisions will further ensure that the investigations properly document Consent Decree required information, which will allow for an analysis for compliance.

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VII. RECOMMENDATIONS

- The OIG concurs with Audit Division's recommendation made in their Interim Summary Report of Complaint Investigations, that the Department establish a method for documenting the requirements of Paragraph 80 within the personnel complaint investigation format.
- The OIG concurs with Audit Division's recommendation made in their Interim Summary Report of Complaint Investigations, that IAG develop a ready-reference checklist to be used by commanding officers and others in the personnel complain review process as a standard for evaluating the thoroughness of investigations.
- The OIG concurs with Audit Division's recommendation made in their Interim Summary Report of Complaint Investigations that IAG establish a method for documenting whether interviews of complainants and witnesses were held at a time, date and location convenient to them; that no group interviews were conducted; and whether a scene was canvassed for witnesses and evidence.
- The OIG recommends that a system be established to ensure that tapes utilized for complaint investigations are submitted to SID for storage as required by Department Manual Section 3/825.
- The OIG recommends that the Department direct commanding officers to conduct periodic audits of tape-recordings of complainant, accused and witness interviews to ensure that the paraphrasing is accurate and to identify any issues relative to additional training for I/Os on interview techniques, etc.

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VIII. ACTION TAKEN

Intradepartmental Correspondence was sent to the appropriate command to take appropriate action with specific investigations identified to be problematic. For investigations requiring immediate action, the OIG requested a 30-day response from the Department identifying the type of action that will be taken.

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APPENDIX A

CONSENT DECREE PARAGRAPHS

Paragraph 79 requires the Los Angeles Police Department (LAPD) to document and forward all complaints to the IAG for review and investigative assignment within ten days of receipt, pursuant to paragraphs 93, 94, and 95.

Paragraph 80 defines specific investigative requirements that apply to all complaint investigations in which the underlying alleged misconduct falls under the definition of paragraphs 93 and 94, to include tape recording of interviews; canvassing a scene for witnesses; interviewing witnesses at sites and times convenient for them; prohibiting group interviews; interviewing supervisors with respect to their conduct at the scene during the incident; collecting and preserving evidence; and, identifying and reporting inconsistencies in officer and witness interview statements.

Paragraph 83 requires that, subject to restrictions on use of information contained in applicable state law, IAG personnel investigating complaints shall have access to TEAMS, including training records, Complaint Form 1.28 investigations, discipline histories and performance evaluations.

Paragraph 84 requires that when adjudicating complaint investigations the Standard California Jury Instructions be used to evaluate credibility; consideration be given of the accused officer's history and disciplinary records and the civilian's criminal history, where relevant and appropriate; no automatic preference of an officer's statement over the statement of any other witness including the complainant; no automatic judgement of insufficient information to make a credibility determination when only conflicting statements exists; and no automatic rendering of a witness statement as biased or untruthful given a familial or social relationship.

Paragraph 85 requires that all complaints be adjudicated using a preponderance of evidence standard and, wherever supported by evidence collected, complaints shall be adjudicated as Sustained, Sustained-no penalty, Not Resolved, Unfounded, Exonerated, Duplicate, or No Department employee. A complaint can not be closed without a final adjudication.

Paragraph 86 mandates that where complaints are withdrawn, filed anonymously, filed by a person other than the victim of misconduct or in cases whereby the complainant is unavailable to make a statement, the LAPD shall use reasonable efforts to investigate complaints to determine whether they can be corroborated.

APPENDIX A (Cont.)

CONSENT DECREE PARAGRAPHS

Paragraph 87 defines the time period in which most investigations should be completed. Taking into consideration the complexity of an investigation, the availability of evidence or other extenuating circumstances, most investigations should be completed within five months.

Paragraph 91 requires that once a complaint investigation is completed, the LAPD must inform the complainant, in writing, of the investigation's significant dates, general allegations and disposition.

Paragraph 93 requires that the Department reallocate investigative responsibility from chain of command supervisors to the IAG for misconduct investigations that involve civil suits or claims for damages involving on duty conduct by LAPD officers or off-duty conduct required to be reported under paragraph 77; unauthorized uses of force, other than administrative Categorical Use of Force investigations; invidious discrimination, including improper ethnic remarks and gender bias; unlawful search and seizure; dishonesty; domestic violence; improper behavior involving narcotics or drugs; sexual misconduct; theft; and, any act of retaliation or retribution against an officer or civilian employee.

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**APPENDIX B
ADMINISTRATIVE ISSUES**

C.F. NUMBER	ISSUES
01-4997	The date the Form 1.28 was completed was left blank.
01-5074	The Form 1.28 has the supervisor signature missing on page 2 and also notes an incorrect date of birth for the complainant.
01-5333	The Form 1.28 does not indicate the origin of complaint; name, rank, and Area of supervisor completing Form.
01-5371	The Form 1.28 does not indicate the investigative Category Level and also does not include the supervisor's signature on page 2.
01-5420	The Form 1.28 does not include the signature of the supervisor reporting on page 1.
01-5450	The investigation reviewed as part of IAAD's Consent Decree audit; Based on that review, IAG changed the adjudication for five of the seven allegations; The Adjudication Section on the Form 1.28 face sheet does not reflect the changes; Also the IAG class codes are missing.
01-5501	The Form 1.28 does not include the supervisor's signature on page 2.
01-5568	The Form 1.28 does not include the CO's signature, name, rank, and Area/division.
02-0298	The Adjudication Section on the Form 1.28, IAG class code and investigating entity were left blank.
02-0403	The Form 1.28 indicates the adjudication as exonerated, which is not consistent with COP's not resolved adjudication. OIG noted on the Case Progress Log for IAG to take corrective action.
02-0590	The Adjudication Section and the CO's name, rank, and Area/division were left blank on the Form 1.28.
02-0597	Supervisor's signature is missing on page 2 of the Form 1.28 and the CO's name, rank, Area/ division was also left blank.
02-0767	Second level review not indicated on the Form 1.28.
02-0807	Officers' names are incorrectly listed on the Form 1.28. The serial numbers do not correspond to the appropriate officer.
02-0944	CO signature missing on page. 2 of the Form 1.28.
02-1395	Category box not checked off and CO's signature is missing on page 2 of the Form 1.28.
02-1410	Form 1.28 listed complainant as NFD not consistent with W/C Log.
02-1427	No second level review indicated on the Form 1.28.

**APPENDIX B
ADMINISTRATIVE ISSUES**

C.F. NUMBER	ISSUES
02-1582	The supervisor's name, rank, and Area/division are not indicated on the Form 1.28.
02-1793	The CO's name, rank, and Area/division were not indicated on the Form 1.28.
02-1812	The Form 1.28 for the accused employee is incomplete; The Adjudication Section has both Category Levels III and I checked.
02-1858	The Form 1.28 does not note the accused officer's name; instead it is listed as unknown officer.
02-1945	The Form 1.28 does not include a supervisor signature on page 2.
02-2034	The Form 1.28 Adjudication Section and the employee rank were left blank.
02-2102	The Form 1.19 did not include all of the allegations, and further provided an inaccurate final allegation and/or adjudication.
02-2176	The Form 1.28 does not include the investigative category level and also does not include the supervisor's signature.
02-2266	Form 1.19 did not include all of the allegations and further provided an inaccurate final allegation and/or adjudication.
02-2354	The Form 1.28 does not include the supervisor's signature on page 2.
02-2421	The Form 1.28 does not indicate the origin of complaint.
02-2456	The Form 1.28 indicates an incorrect IAG code "K" instead of "J".
02-2762	The Form 1.28 does not include the employee's signature under the interview section. Also the Form 1.19 did not include all of the allegations and further provided an inaccurate final allegation and/or adjudication.
02-3004	The adjudication section of the Form 1.28 was not completed.
02-3085	The Form 1.28 does not include the accused officers. The officers were identified during a UOF investigation. The form indicates "Unknown".
02-3179	The Form 1.19 did not include all of the allegations, and further provided an inaccurate final allegation and/or adjudication.

**APPENDIX B
ADMINISTRATIVE ISSUES**

CF. NUMBER	ISSUES
02-3183	The Form 1.28 does not include the accused employee's name and serial number.
02-3243	The IAG class codes and investigating entity were not indicated on the Form 1.28.
02-3255	The Form 1.28 does not include the investigative category level and further indicates an incorrect adjudication.
02-3299	The Forms 1.28 for each of the three involved officers are not consistent.
02-3315	The Form 1.28 Adjudication Section was not completed.
02-3383	The Form 1.28 does not include the supervisor's name, rank, Area/division and supervisor signature.
02-3550	The Form 1.28 does not include the supervisor's signature, name, rank, and Area/division.
02-4109	The Form 1.28 does not include the CO's name, rank, and Area/division.

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**APPENDIX C
TAPE-RECORDED INTERVIEWS**

C.F. NO.	ISSUES
02-0403	Inconsistencies between officers' statements. One officer indicated "complainant's face wound up on this side of the pole," there is no indication which side the officer was referring to. The complainant had a contusion under the left eye. The other officer indicated complainant attempted to flee from the officers. One of the officers involved in this complaint was referred to the Risk Management Executive Committee. The complaint investigation was also reviewed as part of the officer's profile. The officer was assigned to desk duty and is being evaluated every six months. No further action necessary.
02-0449	Witness did not say that the officer did not strike the male Hispanic with his flashlight. The I/O embellished the witness statement when he indicated the witness indicated that the officer was keeping the subject back and pushed the subject in the chest area. No issues with the adjudication of the complaint.
02-0597	An officer indicated he conducted the pat down search of the complainant. The I/O indicated the partner officer conducted the search.
02-0961	Complainant believed that the officer was slamming his head into a woodpile and that the officer tried to slam his head into the ground. This was left out of the paraphrased statement.
02-1367	The tape number of the witness interview incorrectly listed as 274341-A instead of 274341-B.
02-1401	A witness interview was not recorded on tape 278338-A as indicated by the I/O.
02-1794	Inconsistencies between witness and officer statements. One officer indicated complainant was passive at the scene, while another officer indicated he was violent.
02-3151	A statement was attributed to the complainant by the I/O that the complainant indicated he would not be treated like the kid in Inglewood. A review of the tapes did not reveal such a statement. Furthermore, a witness statement is embellished when the I/O indicated that she said the complainant verbally assaulted the officers. The tape recording did not reveal that such a statement was made.

**APPENDIX D
GROUP INTERVIEWS**

C.F. NO.	ISSUES
01-5258	Dates, time and location of interviews not indicated.
02-0415	Dates, time and location of interviews not indicated.
02-0512	Dates, time and location of interviews not indicated.
02-0730	Dates, time and location of interviews not indicated.
02-1181	Dates, time and location of interviews not indicated.
02-1220	I/O noted the taped interview with both officers was conducted at the same time.
02-1794	A group of witnesses (teenagers) were interviewed together.
02-2176	A group (crowd) was interviewed together.
02-4042	Dates, time and location of interviews not indicated.
02-1793	A group of witnesses (teenagers) were interviewed together.
02-1866	Dates, time and location of interviews not indicated.
02-3208	Dates, time and location of interviews not indicated.

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**APPENDIX E
WITNESS INTERVIEWS**

C.F. NO.	ISSUES
01-5501	Witnesses whom the OIG believed were relevant to the complaint investigation were not interviewed.
02-0310	Witnesses whom the OIG believed were relevant to the complaint investigation were not interviewed.
02-1775	Witnesses whom the OIG believed were relevant to the complaint investigation were not interviewed.
02-1793	Witnesses whom the OIG believed were relevant to the complaint investigation were not interviewed.