

**STATUS UPDATE: MANAGEMENT OF LAPD  
HIGH-RISK OFFICERS**



**OFFICE OF THE INSPECTOR GENERAL  
LOS ANGELES POLICE COMMISSION  
KATHERINE MADER, INSPECTOR GENERAL  
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**INTRADEPARTMENTAL CORRESPONDENCE**

November 18, 1997

To: Board of Police Commissioners

From: Inspector General

Subject: **MANAGEMENT OF LAPD HIGH-RISK OFFICERS**

The attached report is the result of a study conducted by the Office of the Inspector General to determine whether the Department has a comprehensive ongoing program to identify and evaluate potential high-risk police officers. This study was conducted because of continuing concerns about the Department's effective identification and monitoring of potential high-risk officers as set out in the Christopher Commission Report in 1991 and the report of Special Counsel Merrick Bobb in 1996.

It is with gratitude and appreciation to all those who participated in this study that I submit this report for your consideration.



KATHERINE MADER  
Inspector General

## Executive Summary

Concerns about the Los Angeles Police Department's (Department's) effective identification and monitoring of potential high-risk police officers have been consistently raised since the 1991 Christopher Commission Report and through the 1996 report of Special Counsel Merrick Bobb. As such, the Office of the Inspector General (OIG) sought to currently determine whether the Department has a comprehensive ongoing program to identify and evaluate potential high-risk police officers.

Additionally, the OIG sought to determine whether adequate policies and standards exist to protect the good name and reputation of the Department when the integrity of its officers has been compromised by sustained complaints, criminal proceedings, or civil litigation finding misconduct. This Report is intended to aid the ongoing efforts of the Police Commission and Chief of Police Bernard Parks in reaffirming public confidence and trust in the Department in these critical areas.

In part because its efforts to glean information about litigation have been met with some resistance by the City Attorney's Office, the Department does not have a comprehensive ongoing program to identify and monitor potential at-risk employees. The use of the Training Evaluation and Management System (TEAMS)<sup>1</sup>, implemented on July 7, 1997, is still not fully operational. At some point computerized information concerning employees' disciplinary histories accessible by supervisors through TEAMS will provide one component of an effective risk management system. However, a comprehensive system will require the effective coordination and utilization of numerous additional components not currently accessible through TEAMS.

### **The most significant findings of the OIG are as follows:**

- Because of positions historically taken by the City Attorney, the Department cannot comprehensively identify which Department employees are defendants in either single or multiple civil lawsuits filed in connection with their Department activities. In some situations, the Department may not be aware of litigation involving its own employees, even after a substantial settlement has been paid. Due to the City Attorney's policies, the Department also cannot readily access valuable information contained within City Attorney lawsuit files, despite the fact that the Department's employees are being sued for conduct stemming from their employment;

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<sup>1</sup> TEAMS is a computer system that enables authorized employees to gain personnel information in a faster and more efficient manner. Information contained within TEAMS, according to a videotape produced by the Department, is "beneficial to investigations, performance evaluations, and promotional opportunities."

- The Department does not have adequate policies or standards to address whether officers with recent sustained administrative discipline for integrity-related offenses should remain in positions in which they make arrests, write police reports, and testify in court;
- The Department does not adequately track those employees who are facing criminal charges or who are on criminal probation. The Department also does not have adequate policies or standards to determine whether such employees should continue to perform field activities. Nor does the Department have adequate procedures to notify the criminal court if the Department becomes aware of a violation of probation;
- Most Field Training Officers (FTOs) do not have significant disciplinary histories; however, the Department does not have adequate policies or standards to address whether the small percentage of FTOs with significant and recent disciplinary histories should continue to supervise and train probationary officers;
- The Department lacks adequate policies and procedures to inform sergeants and lieutenants on a need-to-know, confidential basis of the identity of potential high-risk officers and risk situations under their command. Further, the Department does not have written procedures mandating the circulating of information concerning high-risk officers on a regular basis to those who are accountable for the reduction and control of high-risk behavior.

The Department's formal report of employees with three or more personnel complaints in a quarter, until recently, has been out-of-date.<sup>2</sup> The report does not circulate to supervisors below the rank of captain;

- The "List of 44" allegedly at-risk officers identified by the Christopher Commission is outdated and should be publicly abandoned; and
- The TEAMS system as described in footnote (1) is not yet an effective method for field supervisors to identify and monitor potential high-risk officers .

Each of the above findings is discussed in detail in the body of this report.

The **principal recommendations and actions** resulting from the OIG's evaluation of the manner in which the Department identifies and monitors potential high-risk officers are as follows:

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<sup>2</sup> Until recently, the Department's report on employees with three or more personnel complaints was close to one year out-of-date. On September 25, 1997, the Department was provided with a draft of this OIG report which noted the fact that the Department's quarterly report had not been issued since November 1996. On October 1, 1997, the Department's quarterly report of officers with 3 or more personnel complaints was updated.

- The City Attorney should revise policies that impede the Department's ability to learn of and to monitor civil litigation. After reviewing a draft of this report, the Police Commission has requested that the Inspector General work with the Department and City Attorney to develop a solution to this problem;
- The Department should develop new policies or revise existing policies concerning whether and in what circumstances an employee who has been found to have committed integrity or force-related misconduct should be allowed to perform as either a field training officer or in any other capacity requiring arrests, writing police reports, or testifying in court;
- The Department should immediately develop new policies or revise existing policies to monitor proceedings in which a Department employee is criminally prosecuted or on criminal probation. The Department should develop new policies to determine whether such an employee should be prohibited from engaging in routine Department duties which may be incompatible with the criminal offense allegedly committed by the employee. The Department should develop policies mandating notification to the criminal court if it becomes aware of a violation of probation committed by a Department employee;
- The Department should develop new policies and procedures or revise existing policies to strengthen the Department's ability to hold commanding officers and all supervisors within a command accountable for proactive management of those officers posing substantial risk of potential liability to the City or of compromising the integrity and trustworthiness of the Department; and,
- The "List of 44" problem officers, never intended to stigmatize officers but rather to draw attention to management failures, should be publicly abandoned by the Department, and any updates as to the status of the officers on this list should be discontinued.

## I. CIVIL LITIGATION INFORMATION IS NOT ADEQUATELY USED TO TRACK PROBLEM OFFICERS

The following recent incident was discovered during the OIG's current audit and illustrates a serious problem in this area:

In August, 1997, the City Attorney settled a civil lawsuit by agreeing to split \$125,000.00<sup>3</sup> among four separate plaintiffs. The lawsuit claimed that several Department gang enforcement officers used excessive force at a birthday party involving the plaintiffs. It specifically alleged that a 14-year-old boy was struck in the face with the butt of a gun, knocking out a tooth, and that the boy's father was rendered unconscious from a choke hold.

When the OIG queried the Department concerning the above case, it determined:

- 1) The **Department had no record** of either the lawsuit or the settlement and was not notified regarding the facts, negotiations, or settlement by the City Attorney;
- 2) There is **no corresponding Department personnel complaint investigation** addressing the conduct of the involved officers;
- 3) Neither of the officers' supervisors, when contacted by the OIG, was aware of the existence of the above-described lawsuit or settlement.

### A. Specific Problems

A complex relationship exists between the Department and the City Attorney's Office with respect to civil litigation involving police officers.<sup>4</sup> The City Attorney is generally the sole entity

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<sup>3</sup> The decision to pay, settle, or compromise is within the authority of the City Attorney according to Div. 5, Ch. 10, Art.2 Sec. 5.173 of the City Administrative Code with the following provisos: if the settlement or award is less than \$50,000 to any one person, the City Attorney has sole discretion to pay, settle, or compromise cases without outside consultation. This provision allowed the City Attorney to settle the above-described case without notifying the Department even though the **cumulative** total of settlements to different plaintiffs involved in the same incident was over \$50,000; if the settlement is between \$50,000 and \$100,000, approval of the chairperson of the City Council's Budget and Finance Committee is required; if the amount is above \$100,000, the authority to settle is governed by Charter section 42(3) which appears to require the approval of the City Council. It is not legally mandated that the Department be consulted or notified by either the City Attorney or the City Council prior to any settlement, although notification is generally made of settlements over \$100,000. The Department is not consistently advised of settlements under \$100,000.

<sup>4</sup> To unravel and understand this relationship, during early 1997, OIG Management Analyst John Forland, who is also an attorney, interviewed Department employees, and personnel from the Offices of the City Attorney, the City Clerk, the City Treasurer, the Personnel Department, and the City Council. The OIG is grateful to Lt. Pete Trilling of Internal Affairs Group, Lt. Larry Shelley and many of his staff at Legal Affairs Section, and Managing City Attorney G. Daniel Woodard for their assistance and cooperation.

representing Department employees sued civilly for alleged misconduct<sup>5</sup>. However, due to restrictions imposed by the City Attorney, the Department is not privy to much information contained within such civil lawsuits.

**1) There is no single source within the Department or City Attorney's Office of names of employees involved in civil litigation related to their Department employment.**

The Department does not have its own complete listing of employees who are current defendants in either single or multiple civil lawsuits. The Department also does not have sufficient access to City Attorney civil lawsuit records to identify such employees.<sup>6</sup> In addition, the City Attorney's Office has indicated to the OIG that it does not track cases centrally and does not track involved Department employees.

The Department regularly receives notice through the City Attorney if an employee has been named and served in a lawsuit, and requests legal representation. However, this is an ineffective system to ensure that the Department becomes aware of all lawsuits involving the conduct of its employees for several reasons. An employee may be named as a defendant in a lawsuit, but not formally served with the lawsuit itself. Also, an employee may request legal representation from the Police Protective League, or obtain private counsel. In these instances the employee may never request legal representation through the Department and the Department may not even become aware that a lawsuit has been filed.

The City Attorney's Office would not provide to the OIG either the names of officers involved in ongoing civil lawsuits or the names of officers involved in a selected list of settled civil lawsuits. Senior Managing City Attorney G. Daniel Woodard stated that the City Attorney's Office would not release the names of Department employees involved in litigation because he was unsure of the effect of the release of such information upon pending lawsuits.<sup>7</sup>

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<sup>5</sup> In unusual situations where a conflict of interest exists, the City may contract with an independent attorney to represent the city.

<sup>6</sup> The Department, through its Legal Affairs Section, is attempting to organize its own database of lawsuits and involved employees. However, the Department acknowledges that this database will be incomplete because of the City Attorney's denial of access to necessary information.

<sup>7</sup> Mr. Woodard, while very cooperative and responsive to the OIG throughout this audit, indicated a concern over Department personnel records being discoverable by plaintiffs' attorneys. Although the City Attorney's Office would not provide the names of involved officers, they did provide the status and settlement amounts of 31 lawsuits involving the Department which were identified by the OIG.

**2) The Department's system of reviewing every civil claim<sup>8</sup> filed against the City for alleged misconduct does not adequately allow the Department to perform its risk management function.**

**a) A civil claim alleging misconduct rarely results in the initiation of a Department personnel investigation.**

The Department Manual requires that a personnel complaint investigation be initiated whenever there is a formal allegation of misconduct which could lead to discipline. In many instances, civil claims filed by a member of the public articulate specific allegations of misconduct. Such misconduct allegations, despite the requirements of the Department Manual, only rarely result in the initiation of a formal personnel investigation.

For example, Internal Affairs Division reviewed 561 civil claims for damages involving Department employees which were forwarded to it by the City Attorney and the Department's Legal Affairs Section in 1995. Eighty-three claims resulted in a preliminary investigation by the Department. From those 83 preliminary investigations, 28 resulted in formal personnel complaint investigations. As a result of one of the investigations, one civilian was disciplined and will be terminated. **However, according to this audit, the Department did not sustain a single allegation of misconduct against a sworn employee stemming from its review of the 561 civil claims which were filed against the City in 1995.**

For the past several years, the City has paid millions of dollars in plaintiff settlements and awards as a result of alleged police misconduct. Each of these cases in state court originated with the filing of a civil claim. It is true that a verdict or settlement may be a misleading indicator as to whether an allegation of misconduct is accurate. Settlements or verdicts may be based upon factors other than an officer's conduct, such as the unavailability of a key witness, a biased jury, or practical considerations such as the cost to defend versus the cost to litigate. However, there can be no question that **some** portion of settlements and jury awards are based upon legitimate claims.

In those instances where claims were legitimate, and jury awards or settlements have occurred, a judgement was made by either the jury or the City Attorney that the plaintiff either proved or would be able to prove his or her case by a preponderance of the evidence. That is the **same** standard which the Department requires to sustain an internal disciplinary investigation. It is

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<sup>8</sup> A civil plaintiff must file a claim with the Los Angeles City Clerk prior to filing a lawsuit. The claim must be filed within six-months from the time of the occurrence of the injury. The City then has an opportunity to accept or reject the claim. Most claims are rejected. The majority of claimants do not file lawsuits once their civil claims have been rejected by the City.

difficult to understand how the City can pay large settlements and awards for proveable misconduct in instances wherein the Department has not initiated a parallel personnel investigation. Compounding this conundrum is the situation described in Section (1) above. If the Department is not advised by the City Attorney of the identity of the accused employee(s), the Department is logically unable to initiate an administrative investigation which could lead to discipline.<sup>9</sup>

**b) Lawsuits filed in federal court do not require the earlier filing of a claim as is required in state court. There has not been a procedure in place for the City Attorney to notify the Department of lawsuits filed in federal court; thus, the Department frequently has not been notified of federal lawsuits.<sup>10</sup>**

The Department has immediate access to civil claims which are required to be filed prior to civil lawsuits in **state** court. However, the Department has **not** been receiving notice of **federal** lawsuits filed against Department employees. (An alleged violation of federal civil rights is one example of a federal lawsuit in which the Department may be a named defendant). As a result, federal lawsuits have been litigated, settled, and damages paid without the Department **ever** receiving notice that such a lawsuit was filed. This obviously has precluded the Department from taking a close look at an employee's conduct at an appropriate time.

**3) While the Department assists the City Attorney in preparing civil litigation cases, the Department is not fully or consistently briefed as to pending litigation involving Department employees.**

The Department, through Legal Affairs Section Police Litigation Unit, provides investigators to work with Assistant City Attorneys on selected complex police litigation. Regardless of such partnership, the Assistant City Attorney trying the case is given considerable discretion to decide whether and how to involve the Department and its investigators.

The extent of the Department's involvement is not consistent from case to case. Legal Affairs Section may be involved extensively in every phase of a case, or Legal Affairs Section and the Department may be excluded entirely by the City Attorney and not informed that a lawsuit exists. **In some cases, details about specific cases have not been made available to the Department**

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<sup>9</sup> The name of the accused Department employee may not be known to the complainant at the time of the filing of the civil claim. It is also common for the identity of the initially accused employee(s) to change during the course of litigation to reflect the employee who was actually involved in the incident.

<sup>10</sup> During the past two to three weeks, discussions have been held between the Department and the City Attorney in an attempt to create a system in which the Department is notified of federal lawsuits that have been filed against its employees.

**until all legal appeals have been completed, years after a case was tried.**<sup>11</sup> According to the City Attorney's Office, restricting Department access is necessary to protect work product from getting into the hands of plaintiffs' attorneys who could possibly use the information against the City in another pending case.

This inability of the Department to directly access all relevant information from the City Attorney prevents it from performing its public mandate to quickly identify and monitor at-risk employees. As a result, the Department cannot and does not link litigation data with disciplinary and personnel records. It is critical for the City Attorney to work out an arrangement with the Department to learn significant details of potential officer misconduct as early as possible in the litigation process.

**4) There is no procedure in place for either the City Attorney or the Department's Legal Affairs Section to inform the Department of the disposition of lawsuits.**

While Internal Affairs Division may initially be notified that a claim has been filed, there is no procedure in place for either the City Attorney or the Department's Legal Affairs Section to re-notify Internal Affairs that a case has been settled. Since a settlement may occur years after an incident, the Department should have a system in place to identify the employee who may have caused liability to the City in order to examine and manage the potential risk involved with the employee.

**II. THE DEPARTMENT DOES NOT HAVE ADEQUATE POLICIES OR STANDARDS TO ADDRESS WHETHER OFFICERS WITH SUSTAINED ADMINISTRATIVE DISCIPLINE FOR INTEGRITY-RELATED OFFENSES SHOULD REMAIN IN THE FIELD, CONTINUE TO MAKE ARRESTS, AND AUTHOR POLICE REPORTS**

The OIG reviewed the records of 78 Department employees who received discipline by the Department since 1993 for having committed integrity-related offenses. These offenses include: theft, dishonesty, falsification of official reports, making false and misleading statements during an official investigation, and testifying falsely at a Board of Rights hearing.

The OIG reviewed the present assignments of those officers who remain with the Department. Most of the above-identified officers remain in field assignments where they continue to make arrests, write police reports, and testify in court. The following examples illustrate the situations described above:

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<sup>11</sup> A case overview may be prepared by Legal Affairs Section for the Chief of Police after appeals have been denied. This overview may be delivered to the Chief several years after the original incident, thus limiting the Chief's ability to identify and monitor the involved employee in a timely fashion.

1) A police officer pled guilty to petty theft for stealing a pair of sunglasses from a department store. The criminal court placed him on one-year summary probation. In a related administrative proceeding the officer was suspended in 1997 for 88 days following a Board of Rights hearing. The officer has already served his administrative suspension and, despite being on criminal probation himself, is currently assigned to patrol.

2) A police officer was suspended for 50 days in 1994 for making a false insurance claim regarding the alleged theft of his personal vehicle. He is currently assigned to a traffic division as a collision investigator where he investigates traffic collisions, writes citations, makes arrests for driving under the influence, and testifies in court. This is particularly disturbing given his history of dishonesty related to an insurance company.

The Department's "Core Values" emphasize "integrity in all we say and do."<sup>12</sup> Additionally, according to the Department Manual: Volume 1, Section 210.20 entitled "Integrity," "The public demands that the integrity of its law enforcement officers be above reproach, and the dishonesty of a single officer may impair public confidence and cause suspicion upon the entire Department."

The legality of many arrests depends upon the credibility of the testifying police officer. The public expects that police officers who testify in court have impeccable credentials for honesty. Any magistrate who must make a judgment as to the credibility of contradictory testimony also expects that a testifying officer is honest, and lacks a professional history to the contrary.

In the vast majority of court cases, neither the prosecutor nor the defense attorney has access to the disciplinary record of an involved Department employee. Only in rare circumstances is an officer's disciplinary record, generally for aggression, ordered provided to the parties by the court. As such, in the opinion of the OIG, the Department has an unwritten ethical obligation to ensure that only officers with the highest standards of integrity represent the Department both in making arrests and testifying about such arrests in court.

In addition to an ethical responsibility, serious legal questions exist regarding the Department's present practice of allowing officers with recent integrity-related offenses to gather evidence and testify in court without the Department disclosing their background to the prosecution or court. The decision of the United States Supreme Court in Brady v. Maryland, 373 U.S. 83 (1963) requires the prosecution to turn over requested evidence favorable to the accused, and the Supreme Court in Giglio v. United States, 405 U.S. 150 (1972) held that evidence impeaching the credibility of a government witness falls under the Brady rule.

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<sup>12</sup> The Department Manual, Volume 1, Section 110.40 states: "Integrity is our standard. We are proud of our profession and will conduct ourselves in a manner that merits the respect of all people. We will demonstrate honest, ethical behavior in all our interactions. Our actions will match our words. We must have the courage to stand up for our beliefs and do what is right. Throughout the ranks, the Los Angeles Police Department has a long history of integrity and freedom from corruption. Upholding this proud tradition is a challenge we must all continue to meet."

If significant time has passed since an integrity-related violation, the Department certainly can make the argument that an employee has been rehabilitated. However, at the present time the Department does not have specific standards regarding how to handle employees with recent integrity-related offenses. This is a difficult issue. A legitimate question may be asked whether there is **any** place in the Department to assign an officer with an integrity-related violation. The Department also faces both budgetary restrictions in assigning officers to home and restrictions within Memorandums of Understanding with the Police Protective League in demoting and re-assigning officers. However, allowing officers with recent integrity-related offenses to engage in field and court responsibilities creates potential civil liability, legal, and ethical issues for the Department.

**III. THE DEPARTMENT DOES NOT ADEQUATELY TRACK THOSE EMPLOYEES WHO ARE FACING CRIMINAL CHARGES OR WHO ARE ON CRIMINAL PROBATION. THE DEPARTMENT ALSO DOES NOT HAVE ADEQUATE POLICIES TO DETERMINE WHETHER SUCH EMPLOYEES SHOULD CONTINUE TO PERFORM ROUTINE POLICE WORK. NOR DOES THE DEPARTMENT HAVE ADEQUATE PROCEDURES TO NOTIFY THE CRIMINAL COURT IF THE DEPARTMENT BECOMES AWARE OF A VIOLATION OF PROBATION.**

Not all employees who commit criminal offenses are terminated from the Department. However, employees have an affirmative duty to notify the Department if they have been detained for a criminal offense.<sup>13</sup> It is impossible to easily discern from Department records which employees have been charged with criminal offenses and which employees have been convicted and are on criminal probation. As a result, employees may be assigned to Department duties which are inappropriate in light of their criminal cases.

For example, an employee is currently on criminal probation for misdemeanor prowling to which he pled "no contest." The facts consisted of the officer exposing himself and masturbating in the parking lot of a shopping center during daylight hours. While on criminal probation he was assigned to an elite and coveted position.<sup>14</sup> Another example, as described in Section II of this report, is the patrol officer who is currently on criminal probation for petty theft.

Without the Department being able to easily identify which employees are on criminal probation or facing criminal charges, the Department cannot monitor their assignments and behavior. The Department faces civil liability from both the public and fellow employees if it does not adequately identify and monitor employees on criminal probation.

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<sup>13</sup> See LAPD Manual, Volume 3, Section 837.10.

<sup>14</sup> This employee was recently re-assigned after his specific circumstance was detailed to Chief Parks by the OIG.

**IV. MOST FIELD TRAINING OFFICERS (FTOS) DO NOT HAVE SIGNIFICANT DISCIPLINARY HISTORIES; HOWEVER, THE DEPARTMENT DOES NOT HAVE ADEQUATE POLICIES OR STANDARDS TO ADDRESS WHETHER THE SMALL PERCENTAGE OF FTOS WITH SIGNIFICANT DISCIPLINARY HISTORIES SHOULD CONTINUE TO SUPERVISE AND TRAIN PROBATIONARY OFFICERS**

After graduating from the Academy, each recruit spends one year on probation working with various Field Training Officers (FTOs). Any police officer with the rank of PIII is eligible to serve as a FTO.

The Christopher Commission Report in 1991, at page 127, raised concerns about the disciplinary records and the training required to become an FTO, stating, in part: "... there are no formal eligibility or disqualification criteria based upon applicants' disciplinary records."<sup>15</sup> The OIG sought to determine whether FTOs with recent sustained allegations, particularly of excessive force and/or integrity-related offenses, still remain in FTO positions. As implied by the Christopher Commission, officers with serious disciplinary histories would be questionable role models for new officers.

The Department currently has 954 FTOs. The OIG randomly audited the disciplinary histories of 423 of the FTOs. **The vast majority of FTOs do not have significant disciplinary records.** However, approximately 3% of the audited group received sustained discipline for serious misconduct within the past five years.

The following examples illustrate this situation:

- 1) One current FTO was suspended for 44 days in 1995 for inappropriately accessing a Department computer for personal reasons. He was suspended for 10 days in 1997 for making improper remarks to a witness who had just testified against him in his Board of Rights hearing. He has **three** personnel investigations pending. They involve: associating with a known marijuana dealer, discourtesy, and failing to discontinue responding with red light and sirens to a radio call as directed by a supervisor.
- 2) Another current Field Training Officer was suspended in 1997 for 129 days for driving under the influence, endangering his daughter, and failing to cooperate with on-duty personnel conducting an official investigation. He was suspended for 22 days in 1995 for directing discourteous remarks to a citizen off-duty and making an unjustified threat under color of authority. He has another personnel investigation pending.

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<sup>15</sup> Report of the Christopher Commission, at page 127.

It should be noted that the OIG, in April 1997, brought to the attention of a Deputy Chief that a FTO within his command had an unusually significant complaint history, namely 23 personnel complaints in 26 years, nine of which were sustained. His most recent sustained complaint was in 1994 when he received a 2-day suspension as a result of a Board of Rights hearing for failing to notify a supervisor after becoming aware of misconduct by another member of the Department. His disciplinary record reflects the following "not resolved" complaints: Discourtesy (4 times), Excessive Force (3 times), and Improper Tactics (2 times). The officer remains in the capacity of a FTO.

It is recognized that the Department faces both budgetary restrictions and restrictions within Memorandums of Understanding with the Police Protective League if it attempts to remove FTO status from an officer. However, the removal of FTO status, at least temporarily, from police officers who have been found guilty of integrity or force-related misconduct protects both impressionable new police officers and the public. Standards and procedures need to be negotiated by the Department in this area.

**V. THE DEPARTMENT LACKS ADEQUATE POLICIES AND PROCEDURES TO DISSEMINATE INFORMATION REGARDING THE IDENTITY OF POTENTIAL HIGH-RISK OFFICERS FROM COMMAND STAFF TO SUPERVISORS UNDER THEIR COMMAND. THE DEPARTMENT ALSO DOES NOT HAVE WRITTEN PROCEDURES MANDATING THE CIRCULATING OF SUCH INFORMATION ON A REGULAR BASIS.**

The LAPD Summary of the Mark Fuhrman Task Force, as edited for public release, stated<sup>16</sup>, "IAD (Internal Affairs Group) now provides each command with a quarterly report on employees who receive three or more complaints in a quarter. This allows the command to review the complaints as a whole to see if an early pattern exists." (See Footnote No. 2).

The October 1, 1997 report consists of a computerized list of 41 employees who were administratively charged with three or more personnel complaints during a specific quarter year. The report identifies not only specific officers, but the nature of the complaints, such as ethnic remarks, discourtesy, or unnecessary force, and a summary of the specific allegations.

For example, the October 1, 1997 report contained the description of one officer who, in 1996, was charged with misconduct in four separate internal investigations: three investigations for unauthorized force and one investigation for unbecoming conduct. The **four separate investigations involving four separate complainants** are described as follows:

- 1) kicking a complainant in the ribs, placing a gun to the back of complainant's head and recovering planted evidence from a complainant;
- 2) unnecessarily slamming complainant to the ground, and kicking and elbowing complainant;

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<sup>16</sup> See LAPD Summary of Mark Fuhrman Task Force, at page 65.

- 3) unnecessarily spraying complainant with pepper spray; and,
- 4) displaying an obscene gesture.

The OIG recently attempted to determine how this report was utilized by sergeants and lieutenants in the field. If such a report was utilized, it would be an effective mechanism for field supervisors to identify officers who may require closer supervision or training.

The OIG spoke with both Chief of Police Bernard Parks and Deputy Chief David Gascon regarding the use of this report. They stated that **this list was never intended to circulate to employees below the rank of captain**. There were no specific written guidelines promulgated by the Department for its use. Field supervisors, the sergeants and lieutenants in daily contact with patrol officers do not have access to the specific information contained on the report.

It is recognized that there may be legitimate confidentiality concerns when a report of administratively-accused officers is circulated too widely. It is also recognized that it would be inappropriate for field sergeants, for example, to have knowledge of disciplinary proceedings pending against superior officers. However, there is a legitimate need for watch commanders and field supervisors to know who in their command has generated an unusually high number of personnel complaints, particularly if the complaints focus on a particular behavior. There should be a procedure in place to circulate this information on a "need-to-know" basis.

As recommended on page 2 of this audit, The Department should develop policies and procedures to hold commanding officers and all supervisors within a command accountable for pro-active management of those officers posing substantial risk of potential liability to the City or of compromising the integrity and trustworthiness of the Department. The criteria for identifying such high-risk officers should be uniform throughout the Department and developed in cooperation with the OIG in order to assure uniformity for future audits.

**A. The List of "44" problem officers as identified by the Christopher Commission is outdated and should be publicly abandoned.**

In 1991, the Christopher Commission created a list of 44 officers who were the subject of six or more complaints of excessive force or improper tactics between 1986 and 1990. The list has been repeatedly criticized as lacking objective criteria for removal from the list. The list also did not include integrity-related complaints such as theft, and false and misleading statements.

Since 1991, several updates were provided by the Department regarding the "List of 44". The most recent update which included complaint histories was in April 1996. **It should be noted that none of the officers on the "List of 44" are included on the most recent report published by the Department of officers with three or more personnel complaints in a quarter.**

The OIG reviewed the current status and disciplinary histories of the original 44 officers from 1991 through October, 1997. Fourteen of the 44 officers have left the Department. Of the remaining 30 officers still employed by the Department, only two officers received sustained discipline for a force-related personnel complaint during the past seven years. Each officer received an official reprimand, the lowest penalty for sustained misconduct.

In the interest of fairness, the "List of 44" should be publicly abandoned and the Department should not continue to update the disciplinary status of the original officers. The majority of the officers on the list have not had a sustained force-related complaint from 1991, when the list was created, through October, 1997. Other officers, who **should** be identified as "high-risk" employees, are not currently being monitored. Seven years have passed since the date of the misconduct originally qualifying a police officer for the list. Officers should not be branded indefinitely based upon outdated information accumulated between 1986 and 1990.

#### **VI. USAGE OF THE "TEAMS" SYSTEM IS IN ITS EMBRYONIC STAGES. IT IS NOT CURRENTLY UTILIZED BY FIELD SUPERVISORS TO IDENTIFY AND MONITOR POTENTIAL HIGH-RISK EMPLOYEES**

The Training Evaluation and Management System (TEAMS) was implemented on July 7, 1997. Supervisors utilizing the system are able, among other things, to review an officer's disciplinary history. According to a Department bulletin, it is estimated that over 2000 employees will be authorized access to TEAMS. As a result, an extensive training program has begun.

It is important to note, however, that, pursuant to advice from the City Attorney, an officer's litigation history is not a current part of the TEAMS system. (See Section I of this report). Thus litigation information cannot be linked with the Department's disciplinary system. Without resolving the Department's access to the litigation history of each employee, the TEAMS system, as a risk-management tool to identify and monitor potential high-risk employees, is not as effective as it could be.

Special Counsel Merrick Bobb has additionally criticized TEAMS as inadequate in that it contains cumulative statistics only rather than specific incident-based information from which the statistics are derived. He stated in his May 1996 Special Report, "The synopsis on TEAMS of the officer's disciplinary history will be barebones, and a supervisor or manager wishing to learn greater details with respect to the subject matter of sustained complaints, for example, will still have to make a trip downtown to review a paper file." He further stated, "TEAMS is thus a far cry from an automated tracking system that permits management to make informed decisions about officers or to identify and manage at-risk employees as envisioned by the Christopher Commission."<sup>17</sup>

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<sup>17</sup> See "Five Years Later: A Report to the Los Angeles Police Commission on the Los Angeles Police Department's Implementation of Independent Commission Recommendations", May 1996, at page 59.

A July 10, 1997, memo from former Chief of Police Bayan Lewis states: "Commanding Officers can utilize TEAMS to maintain an awareness of the work history information concerning members of their respective commands. This is especially important for newly arriving employees so that **command staff** can be informed of employee background information and tailor their management attention appropriately."

While it is vital that command staff utilize the TEAMS disciplinary information, supervisors in the field, **as well as** command staff, must be made aware of potential high-risk employees under their command. As noted in the recommendation in the Executive Summary, once TEAMS is fully operational, both field supervisors and command staff should be held personally accountable for identifying and monitoring potential high-risk employees under their supervision.

## **VII. CONCLUSION**

While the Department has definitely made progress in areas related to risk-management<sup>18</sup>, some essential elements of a comprehensive risk-management system are still missing. Many of the identified deficiencies can be easily remedied.

The Department has already responded positively to working with the Police Commission and the City Attorney to resolve issues involving access to civil litigation information. The OIG is prepared to work with the Department to establish a comprehensive risk management system.

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<sup>18</sup> The Department has made several improvements in the manner in which disciplinary actions are investigated and adjudicated, such as a simpler format for personnel investigations, and added training in the use of "pattern or practice." It should also be noted that there has been increased discipline imposed for various offenses since Chief Parks has assumed office.