

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT



UNIT LEVEL ADMINISTRATIVE INVESTIGATION
TIMELINESS AUDIT
2016-10-A

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SHERIFF

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LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
Audit and Accountability Bureau

UNIT LEVEL ADMINISTRATIVE INVESTIGATION TIMELINESS AUDIT
Project No. 2016-10-A
Audit Report

PURPOSE

The Audit and Accountability Bureau (AAB) conducted the Unit Level Administrative Investigation Timeliness Audit under the authority of the Sheriff of Los Angeles County. The audit was performed to determine how the individual commands within the Los Angeles County Sheriff's Department ("LASD" or "Department") adhered to the Department policies and procedures related to Unit Level Administrative Investigations, as well as the California Government Code, Sections 3300-3313.¹

The AAB conducted this performance audit under the guidance of Generally Accepted Government Auditing Standards.² The AAB determined the documentation obtained was sufficient and appropriate to provide a reasonable basis for the findings and conclusions based on the audit objectives.

BACKGROUND

Every individual command within the Department has the responsibility to conduct thorough and timely Administrative Investigations. It is imperative that the investigations are done efficiently with integrity and confidentiality. The Department's Manual of Policy and Procedures (MPP), allows Administrative Investigations to be conducted by the concerned unit (Unit Level Administrative Investigation) or by the Internal Affairs Bureau (IAB).³ Although Unit Level Administrative Investigations are conducted under the authority of the assigned unit commander, all Administrative Investigations are initiated, tracked, and approved for executive processing under the purview of IAB. Since Unit Level Administrative Investigations are decentralized throughout the Department, the Chief of Professional Standards Division is the auditee by proxy. According to the MPP, the decision to conduct a Unit Level Administrative Investigation or case assignment to IAB shall be based upon the severity, complexity, and/or the far-reaching effect that the incident may have or may produce.

Upon notification that possible personnel misconduct may have occurred, a unit commander or higher ranking executive may order an Administrative Investigation. Administrative Investigations attempt to identify whether or not the alleged misconduct factually occurred, if the misconduct violated Department policy, and who (Department members) were involved in the misconduct.

¹ California Government Code, Sections 3300-3313, 1976, Amended January 1, 2010.

² United States Government Accountability Office - By the Comptroller General of the United States, December 2011, Government Auditing Standards 2011 Revision.

³ The MPP, Section 3-04/020.05, Initiation of Administrative Investigations.

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California Government Code, Sections 3300-3313, herein referred to as the Public Safety Officers Procedural Bill of Rights Act (POBOR), establishes the rights and obligations related to procedures involving Administrative Investigations. Specifically, POBOR limits a public agency's ability to impose discipline against a public safety officer if the investigation of any misconduct is not completed within one-year of the public agency's discovery of the allegation of the violation. The Department's ability to respond to policy violations is compromised when cases are not completed within the required time periods. Protections provided by the POBOR do not apply to non-sworn personnel. However, the Department strives to extend the same protections to Administrative Investigations involving non-sworn personnel.

PRIOR AUDITS

This was the first Unit Level Investigation Timeliness Audit conducted by AAB. An analogous audit examining cases completed by IAB (Project No. 2016-5-A) was concluded and published on November 15, 2016. That audit identified several areas in need of improvement relative to procedures impacting the timelines of Administrative Investigations, and made recommendations designed to correct deficiencies and improve performance. Currently, IAB is assessing the recommendations of that audit and a corrective action plan is pending.

METHODOLOGY

Scope

The audit encompassed five objectives:

- Department Knowledge Date – To determine if the Department correctly identified an accurate Department knowledge date at the inception of the investigation.
- Extension Request – To determine if the investigator requested an extension if the investigation was not completed within 90 days for Non-Relieved of Duty (Non-ROD) cases, 60 days for Relieved of Duty (ROD) cases.
- Disposition Sheet – To determine if Disposition Sheets were prepared and finalized, upon completion of the investigation, within 30 days of Non-ROD cases or within 20 days of ROD cases.
- Letter of Intent – To determine if the Department notified the employee in writing of its intent to impose discipline.

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- One-Year Statute – To determine if the Department completed the investigation within the one-year statute in compliance with POBOR.

Auditors reviewed compliance with various time elements of the selected Unit Level Administrative Investigations. Auditors used the applicable 2014 MPP and POBOR sections, as well as the most current version (Rev. 2005) of the Administrative Investigations Handbook (Handbook),⁴ to measure against the selected Unit Level Administrative Investigations. Auditors utilized information found in the Personnel Performance Index (PPI)⁵ and the investigation case files as source documentation.

Audit Time Period

The time period for this audit was from January 1, 2014, through December 31, 2014.

Audit Population

Using PPI, the auditors identified 389 Unit Level Administrative Investigations initiated by unit commanders during the 2014 calendar year, excluding investigations that were not completed by the commencement of this audit. A statistically valid sample of 77 Unit Level Administrative Investigations was reviewed for this audit.⁶ Cases from 37 various units throughout the Department were represented in the audit population.

SUMMARY OF AUDIT FINDINGS

The management and staff at IAB were accommodating and cooperative in providing the necessary information, and in validating the findings. The audited units performed well in reference to notifying the subject of the intent to impose discipline (Letter of Intent). The audit identified several areas in need of improvement:

- Department Knowledge Date
- Extension Request
- Disposition Sheet
- One-Year Statute

⁴ The MPP, Section 3-04/020.15 - Administrative Investigation Procedures, refers investigators to the Administrative Investigations Handbook (Rev. 2005), published by the IAB, for procedural information.

⁵ The PPI application stores the data relevant to incidents involving Administrative Investigations handled by the Department. The PPI was replaced by the Performance Recording and Monitoring System (PRMS) on November 22, 2016. The PRMS currently duplicates the functions of PPI and will be updated with enhancements in the future.

⁶ A statistically valid sample was identified using a statistical one-tail test with a 95% confidence level and a 4% error rate.

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Although the Department did not meet the standard regarding the one-year statute date and Letter of Intent requirements on a few occasions, these measurements directly impacted investigation completion dates. Therefore, failure to meet these timeline requirements restrict the Department’s ability to impose discipline or other corrective actions.

Table No.1 - Summary of Audit Findings

Objective No.	Audit Objective	Met the Standard
1	UNIT LEVEL INVESTIGATION - DEPARTMENT KNOWLEDGE DATE	
	<i>The Department correctly identified an accurate Department knowledge date at the inception of the investigation</i>	84%
2	UNIT LEVEL INVESTIGATION - EXTENSION REQUEST	
	<i>Investigator requested an extension if the investigation was not completed within 90 days for Non-Relieved of Duty (Non-ROD) cases, 60 days for Relieved of Duty (ROD)</i>	0%
3	UNIT LEVEL INVESTIGATION - DISPOSITION SHEET	
	<i>Investigations had a Disposition Sheet prepared and finalized within 30 days (Non-ROD) or 20 days (ROD) of the completion of the investigation</i>	64%
4	UNIT LEVEL INVESTIGATION - LETTER OF INTENT	
	<i>The Department notified the employee in writing (Letter of Intent) of proposed discipline</i>	98%
5	UNIT LEVEL INVESTIGATION - ONE-YEAR STATUTE	
	<i>The Department completed the investigation within the one-year limitation according to the Public Safety Officers Procedural Bill of Rights</i>	95%

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Objective No. 1 – Department Knowledge Date

Criteria

California Government Code, Section 3304(d)(1), states:

Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct.

The Administrative Investigations Handbook, Time Limits for Conducting Investigations Section, page 3 states:

To facilitate compliance with this new law, the Department must document the date it becomes aware of an allegation of misconduct brought against sworn personnel.

Audit Procedures

Documentation from the Unit Level Administrative Investigations were reviewed in PPI and the case files to determine if the Department knowledge date of the allegation(s) was accurately documented.⁷

Findings

Sixty-five of the 77 (84%) Unit Level Administrative Investigations documented the correct Department knowledge date and met the standard for this objective. Auditors found 12 Unit Level Administrative Investigations contained incorrect Department knowledge dates.

⁷ Department knowledge date refers to when a Department supervisor became aware of acts, omissions, or other misconduct by a Department member. To facilitate compliance with POBOR, the Department must document the date it becomes aware of an allegation of misconduct brought against sworn personnel. (*Affirmed in Jackson v. City of Los Angeles 2003, 111 Cal. App. 4th, 899,909.*)

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Objective No. 2 – Extension Request

Criteria

The Administrative Investigations Handbook, Time Limits for Conducting Investigations Section, page 3 states:

To permit effective “tracking” of an Investigation, an investigator must seek an extension if an investigation is not completed within the following time frames:

- *90 calendar days for Administrative Investigations not involving relieved of duty personnel,*
- *60 calendar days for I.A.B. Investigations involving relieved of duty personnel.*

Audit Procedures

Unit Level Administrative Investigations were reviewed to determine whether requests for investigation extensions were documented within the allotted timeframes. Four of the Unit Level Administrative Investigations involved relieved of duty personnel. The Handbook and the MPP did not define an extension timeframe specifically for Unit Level cases involving relieved of duty personnel. Auditors applied the relieved of duty criteria for cases completed by IAB to the Unit Level cases. Auditors utilized all documentation located in the investigator case files and PPI to determine whether an extension request was submitted. Twenty-eight of the 77 Unit Level Administrative Investigations did not require an extension request. Forty-nine were reviewed.

Findings

None of the 49 (0%) of the Unit Level Administrative Investigations met the standard for this objective.⁸ Auditors were unable to locate any documentation indicating an extension had been requested or authorized.

Objective No. 3 – Disposition Sheet

Criteria

The Administrative Investigations Handbook, Time Limits for Conducting Investigations Section, page 3 states:

⁸ The extension request required was in effect in 2014. It has since been changed in MPP, Section 3-04/020.12.

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*Generally, completed Administrative Investigations should have a disposition sheet prepared and finalized within **30 calendar days** of the completion of the investigation. However, there may be situations that will cause the unit commander to exceed the 30-day limit. Those investigations which involve an employee relieved of duty should be finalized in **20 calendar days**.*

Audit Procedures

Documentation in PPI and the case files for the Administrative Investigations were reviewed to determine whether a Disposition Sheet was finalized within 30 calendar days of the completion of the investigation. Investigations involving relieved of duty personnel were reviewed to determine whether a Disposition Sheet was finalized within 20 calendar days of the completion of the Administrative Investigation. Auditors used the signed approval date on the "Personnel Investigation" (SH-AD-669) form as documentation of the completion date. In cases wherein the SH-AD-669 was not signed or was missing from the case file, auditors utilized the "Case Closed Date" indicated in PPI or in the investigator's log, if included.⁹

Findings

Forty-nine of the 77 (64%) Unit Level Administrative Investigations met the standard for this objective. Auditors found 28 cases in which there were no documented situations to have caused the Unit Commander to exceed the 30-day limit.

Objective No. 4 – Letter of Intent

Criteria

California Government Code, Section 3304(d)(1), states:

In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed discipline by a Letter of Intent or Notice of Adverse Action articulating the discipline that year...

⁹ An investigator's log is maintained by the handling investigator and included in the case file. It typically contains a chronological record of all activities conducted by the investigator and reviewers.

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Audit Procedures

Unit Level Administrative Investigations were reviewed to determine whether the subject was notified by Letter of Intent of the Department's decision to impose discipline. In cases wherein the subject entered into a Pre-Disposition Settlement Agreement (PDSA),¹⁰ the date the subject signed the agreement was used as the date the subject was notified. Of the 77 Unit Level Administrative Investigations, two were excluded from review because the cases were "inactivated" prior to completion of the investigation. Of the 75 remaining cases, 16 were excluded because the disposition did not require discipline; therefore, not requiring a Letter of Intent or PDSA, resulting in 59 cases reviewed for this objective.¹¹

Findings

Fifty-eight of the 59 (98%) Unit Level Administrative Investigations met the standard for this objective. Auditors found no documentation in PPI or in the case file that a Letter of Intent was served for the one remaining case.

Objective No. 5 – One-Year Statute

Criteria

California Government Code, Section 3304(d)(1), states:

Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct.

Audit Procedures

Unit Level Administrative Investigations involving sworn personnel were reviewed to determine whether the cases were completed within the one-year statute period from the Department knowledge date. Of the 77 Unit Level Administrative Investigations,

¹⁰ The LASD Guidelines for Discipline Handbook (rev. 8/01/14) page 8, defines the PDSA as an "alternative method to a full investigation when an employee readily acknowledges his/her error, wants to conclude the matter promptly, and the issue is not a serious policy violation."

¹¹ The MPP, Section 3-04/020.25 - Administrative Investigation Terminology defines "Unfounded" as when an investigation establishes by a preponderance of the evidence that the allegation is not true. "Unresolved" is defined as when there is no preponderance of the evidence to support either version of the incident.

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one was excluded because it was not possible for the one-year statute date to be met.¹²

For purposes of consistency, sworn and non-sworn cases were reviewed for compliance with this objective.¹³

Findings

Seventy-two of the 76 (95%) Unit Level Administrative Investigations met the standard for this objective. Four cases were not completed within the one-year statute. The first case did not meet the standard because the Division Chief signed the Disposition Sheet one day after the statute date expired. The second case expired because an incorrect Department knowledge date was used. The third case expired because the time tolling date was used in lieu of the actual Department knowledge date. The final case involved two non-sworn subjects which took more than one year to complete the investigation. There was no evidence or explanation documenting the lengthy investigation.

OTHER RELATED MATTERS

Other Related Matters are pertinent issues discovered during the audit, but were not objectives that were measurable against Department policies or procedures.

Lack of Consistency among the Manual of Policy and Procedures and the Administrative Investigations Handbook

The Handbook provides specific timeline requirements for Administrative Investigations; however, those standards are not exhaustive to every process in an investigation. Additionally, auditors noted inconsistencies between the Manual of Policy and Procedures and the Handbook with regard to Administrative Investigations, including differing timelines. The Handbook is the procedural manual for Administrative Investigations wherein the need for consistency is significant. Auditors found some sections of the MPP related to Administrative Investigations have been updated but were in conflict with the current version of the Administrative Investigations Handbook, such as the elimination of the 90-day extension and the requirements for the Unit Commanders to complete the investigation (Disposition Sheet).

¹² One sworn case had a Department knowledge date of December 24, 2008. It was an allegation of force that was investigated by the concerned unit in 2009 and deemed "Unfounded." In 2013, the case was reinvestigated by the Internal Criminal Investigations Bureau (ICIB) and no criminal charges were filed. A Unit Level Administrative Investigation was initiated and completed with a disposition of "Unresolved" on June 1, 2015. There was no explanation for why the case by ICIB was initiated.

¹³ The POBOR does not apply to non-sworn personnel or reserve deputies; however, the Department strives to complete all Administrative Investigations within one year.

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Manual of Policy and Procedures, Section 3-04/020.15, Administrative Investigation Procedures, states:

Refer to the Administrative Investigations Handbook, published by Internal Affairs Bureau, for current procedural information.

As noted above, the MPP and the Handbook have conflicting information.

Further Investigation Cases Not Returned to the Advocacy Unit or Unit Commander in a Timely Manner

The Administrative Investigations Handbook states; "When a Unit Commander or the Advocacy Unit requests further investigation, Internal Affairs Bureau should return the case in 25 calendar days, if practicable under the circumstances of the investigation. When an employee is relieved of duty, the additional investigation ideally would be completed in less time." Auditors applied this criteria to the 12 Unit Level Administrative Investigations that had been returned for further investigation. One Non-ROD and one ROD case were found to be in compliance with the guideline. Auditors found no documentation that the remaining 10 cases (eight Non-ROD, two ROD) were returned to the Advocacy Unit or the Unit Commander within 25 days.

Case Tracking

Tracking of the Administrative Investigation, from initiation through adjudication, was difficult to ascertain without manual research. The PPI system was not created to maintain information in "real time." The IAB management confirmed they do not have a comprehensive tracking system capable of tracking a case in real time. This poses a potential risk for the Department of violating the one-year statute date. Some individual units track Unit Level Administrative Investigations through the Department's Risk Management Tracker, individual Division tracking systems, and other systems developed "in-house." The Risk Management Tracker is located in the "Station/Bureau Administration Portal" of the Department's intranet.

Management Directives

Auditors found a lack of consistency relating to case preparation and organization. The contents of investigative reports and the manner in which the documents were presented (stacked) were inconsistently organized. Investigator's logs were incomplete or missing, and transcriptions of the subjects and witness interviews were not included.

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The Personnel Investigation (SH-AD 669) forms were not properly completed or not signed by the approver, and key documents were missing or mislabeled.

The IAB maintains a set of unit orders referred to as Management Directives. The directives provide procedures specific to IAB operations, but they also contain additional information on specific Administrative Investigation related steps or procedures. These directives are not accessible to personnel outside of IAB.

Cases Pending Meetings

Auditors found not all Department Assistant Sheriffs and their assigned Division Chiefs and Directors meet with IAB management to discuss the status of pending IAB and Unit Level Administrative Investigations. This meeting is referred to as the “Cases Pending Meeting.” The purpose of these Meetings is to conduct a review of the status of each pending investigation with the concerned Division representative and IAB.

Additional Information

In an effort to determine where the potential delays in processing Unit Level Administrative Investigations are occurring, several areas were reviewed for timeliness. Auditors identified gaps of time that were not spent processing investigations after the Department officially became aware of the misconduct and the case was initiated. Table No. 2 through No. 7, itemizes groupings of investigations by timeframes of progression. A review of the case files indicate that in many instances, the primary reason for the delay in initiating the Administrative Investigation were due to Supervisory Inquiry reports, or a “Supervisor’s Report of Incident or Damage to County Vehicle or Permittee’s Vehicle” not being completed in a timely manner.

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Table No. 2

Department Knowledge to PDE Entry Date¹⁴	
Average Number of Days	48
1-30 days	36
31-60 days	23
61-90 days	9
91-120 days	3
More than 121 days	5
Information Unavailable	1

Table No. 3

Case Initiation to Investigator Assignment Date	
Average Number of Days	26
1-7 days	42
8-14 days	5
15-21 days	4
More than 22 days	16
Information Unavailable	10

Table No. 4

Case Assigned to Investigator through Submission to Unit Commander for Review	
Average Number of Days	127
1-90 days	36
91-180 days	12
181-270 days	6
271-360 days or more	9
Information Unavailable	14

Table No. 5

Return for Corrections Date to Unit Commander Approval Date	
Average Number of Days	13
1-7 days	30
8-14 days	6
More than 15 days	11
Information Unavailable	30

Table No. 6

Letter of Intent Provided to Unit Commander from the Advocacy Unit	
Average Number of Days	24
1-30 days	10
31-60 days	2
61-90 days	0
91-120 days	1
Information Unavailable	64

Table No. 7

Letter of Intent: From Unit Commander to Subject Service	
Average Number of Days	11
1-7 days	26
8-14 days	2
More than 15 days	2
Information Unavailable	47

¹⁴ The Preliminary Data Entry (PDE) application provides an initial data entry point where key Service Comment, Force, and Investigation information is entered in a timely manner. Once the information is entered, it is then delivered to PPI. When the case information is delivered, a PPI Case ID number is generated. This number becomes the unique ID number for the PPI case and is used to link to an incident (PDE Users Reference Manual - Version 1.0, November 15, 1999).

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CONCLUSION

During the course of the audit, auditors assessed the policies, procedures, practices, and data systems related to timeliness in conducting Unit Level Administrative Investigations and identified several areas in need of improvement.

RECOMMENDATIONS

The resulting recommendations coincide with the findings and conclusions from all objectives and other related matters. They are intended to provide Department management with a tool to correct deficiencies and improve performance.

1. It is recommended that specific instructions for case preparation, case stacking, and organization be incorporated into the MPP and the Administrative Investigations Handbook. In order to achieve more objective, consistent, and higher quality investigations, it is recommended all Department personnel who conduct Administrative Investigations receive the same Department approved and standardized training. (Objective No. 1 and No. 3)
2. The Administrative Investigations Handbook's current version was last updated in 2005. It is recommended the Handbook be updated. The Department should consider converting the Handbook into an easily revised web-based format, as is done with the MPP, and the Custody Division Manual (CDM). (Objective No.2)
3. Personnel conducting Unit Level Administrative Investigations do not currently have access to IAB's Management Directives and training. It is recommended that the MPP and the Administrative Investigations Handbook be updated to incorporate applicable IAB Management Directives, in order to be made available to investigators of Unit Level Administrative Investigations. (Other Related Matters)
4. The Department should consider utilizing the "Adm Investigations" application in the Risk Management Tracker, or other system capable of modifications to meet the needs of the Department. (Other Related Matters)

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5. At this time, not all Divisions participate in a “Cases Pending Meeting” with IAB. It is recommended all Assistant Sheriffs and their respective Division representatives participate to ensure timely completion of investigations and compliance with statute dates. (Other Related Matters)

View of Responsible Officials

On February 27, 2017, the Chief of the Professional Standards Division submitted a formal response to AAB expressing agreement with the audit findings. On February 28, 2017, the Commander of the Audit and Accountability Command submitted a formal response expressing agreement with the audit findings. A copy of the audit report was provided to the Office of the Inspector General (OIG) to offer them an opportunity to comment. The OIG did not provide any feedback.

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This audit was submitted on this 28th day of February 2017, by the Audit and Accountability Bureau.

Original signature on file at AAB

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