

April 18, 2023

LOS ANGELES FIRE DEPARTMENT



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FIRE CHIEF

March 31, 2023

BOARD OF FIRE COMMISSIONERS
FILE NO. 23-037

TO: Board of Fire Commissioners

FROM: *KC* Kristin M. Crowley, Fire Chief

SUBJECT: DEPARTMENT RESPONSE TO INDEPENDENT ASSESSOR AUDIT-
2021 ANNUAL REVIEW OF LAFD'S HANDLING OF COMPLAINTS OF
MISCONDUCT

FINAL ACTION: Approved Approved w/Corrections Withdrawn
 Denied Received & Filed Other

SUMMARY

As directed by the Board of Fire Commissioners, the Los Angeles Fire Department (LAFD) is providing a response to the Audit conducted by the Office of the Independent Assessor (OIA) of a 2021 Annual Review of LAFD's Handling of Complaints of Misconduct.

RECOMMENDATION

That the Board:
Receive and file.

DISCUSSION

The OIA conducted a year-end review audit of discipline cases filed and closed in the LAFD's Complaint Tracking System (CTS) in 2021. The audit includes a year-end review of complaints against LAFD employees, the status of sustained cases, and information related to cases pending a hearing before a Board of Rights (BOR).

During the course of the audit, the Department and the OIA worked collaboratively to identify challenges and develop solutions that exist within the Department's disciplinary process.

As a result of the number of cases pending a BOR hearing, the OIA specifically emphasized one recommendation to the Department; that the Department must immediately and urgently address the backlog of BOR hearings.

The Department concurs with this and has already worked diligently to address the recommendation made by the OIA.

The Assessor's Recommendation

In the October 2022 audit, the Independent Assessor made the following recommendation:

The Department must address the backlog of BOR hearings with urgency and effective and permanent measures. The OIA continues to recommend that the Department establish a time frame for selecting members of the BOR, and that the Department begin following Charter Section 1060(b)(2) and temporarily relieve members from duty for the length of their suspension, when they request a hearing before a Board of Rights. The Department must develop and present a comprehensive plan to the BOFC (including budget, staffing, timelines, etc.) for addressing this issue.

The Department's response is memorialized below.

The Department concurs with the OIA's recommendation and the Professional Standards Division (PSD) has developed a comprehensive plan to address the backlog of pending BOR. In alignment with Goal #4, Strategy #4 of the LAFD 2023-2026 Strategic Plan, *maintain a culture of service, professionalism, and accountability*, PSD has created a culture of accountability, including establishing strategic goals to address the OIA's recommendations.

Goal #1: Create a Board of Rights/Settlement Unit to focus exclusively on the BOR hearings and Settlement Agreements (Completed).

PSD created a BOR/Settlement Unit last year to focus solely on conducting BOR and writing Settlement Agreements. The BOR/Settlement Unit consists of one Fire Special Investigator (FSI) and one Captain/Advocate overseeing and managing all functions of the BOR hearings. They are also currently using PSD Investigators and Captain Advocates to assist with the presentation of evidence and witness testimony.

Goal #2: Increase PSD staffing and budget to provide for conducting multiple Board of Rights hearings simultaneously (In progress).

In order to uphold the recommendations of the OIA, keep up with the increasing case load of investigators, and conduct simultaneous BOR, additional staffing was requested in the Fiscal Year 2022/2023 budget. Three new FSI positions and one Battalion Chief were approved beginning January 1, 2023. These positions were posted for applicants, interviews were conducted, and job offers made. Additionally, one Captain was detailed to PSD to assist as a Sergeant of Arms and as a Department Advocate in the BOR hearings. The PSD budget was also increased for contractual services and court reporters as well as upgrading the Complaint Tracking System. Additionally, two Targeted Local Hire Administrative Clerk positions were requested to provide clerical and administrative support for the BOR hearings.

Goal #3: Collaborate with United Firefighters of Los Angeles (UFLAC) to reach Settlement Agreements in recommended pending BOR's cases (In progress).
PSD has built a strong, collaborative relationship with UFLAC to ensure a fair process for the members throughout the disciplinary process while ensuring accountability to correct behavior. With the addition of Education Based Discipline for EMS policy violations as well as off-duty misconduct, we are able to settle many cases prior to the BOR hearing. The Department and UFLAC have settled nine cases since the OIA's report.

Goal #4: Provide and memorialize Board of Rights training for all Chief Officers (In progress).

Chief Officers may be called to participate in a BOR hearing at any time. The Department identified a gap in training for Chief Officers to be proficient as Board members. In collaboration with the City Attorney's Office, PSD provided basic BOR training for all LAFD Chief Officers. Additionally, PSD is currently working with both the Training and Support Bureau and MySafe LA to develop video-based training that will be memorialized in Target Solutions for members to access at any time. The revision and updates to a BOR script and a shared Google Drive with all relevant BOR documents were developed for Chief Officers to use when selected for a BOR. Finally, PSD met with the City Attorney's Office to discuss the possibility of an assigned City Attorney at PSD to utilize their expertise when conducting BOR hearings.

Regarding the OIA's recommendation *that the Department establish a time frame for selecting members of the BOR, and that the Department begin following Charter Section 1060(b)(2) and temporarily relieve members from duty for the length of their suspension, when they request a hearing before a Board of Rights*, the current statutory authority, does not require a hearing timeline. However, PSD developed a written policy (currently a draft) and will continue to meet and discuss the terms with UFLAC. Several accomplishments have already been made since implementing PSD's plan to address the backlog of BOR hearings. As a result of PSD's comprehensive plan and the culture of accountability, below are some of the accomplishments over the past year.

- PSD completed four BOR hearings and are in various stages with an additional three
- Reduced pending BOR from 83 to 45 (+10 vaccine mandate BOR's) for a total of 55
- 18 members have rescinded their BOR requests and accepted their discipline
- Six (6) members retired in lieu of going to a BOR
- One (1) member was terminated at a BOR
- PSD negotiated and is working on the completion of nine (9) settlement agreements

CONCLUSION

The Department concurs and is responsive to the recommendation made in the OIA audit. PSD is currently making the necessary modifications to existing policies and procedures to reflect the current practices and ensure they align with the Firefighter Bill of Rights as well as Charter Section 1060. As part of these ongoing policy reform efforts, the Department has already made significant changes and improvements in the handling of pending BOR. Since the submission of the OIA's audit, the number of pending BOR has been reduced from 83 to 55. PSD will continue to work diligently to accomplish its strategic goals of increasing staffing, providing training for Chief Officers, and working with labor on settlement agreements. PSD plans to work with the City Attorney's office to develop guidance on implementing Charter Section 1060(b)(2) in regard to suspensions prior to a BOR.

Board report prepared by Kristina Kepner, Commander, Professional Standards Division and Nancie Arbogast, Acting Chief Special Investigator, Professional Standards Division.