

August 2, 2016

LOS ANGELES FIRE DEPARTMENT



RALPH M. TERRAZAS
FIRE CHIEF

July 19, 2016

BOARD OF FIRE COMMISSIONERS
FILE NO. 16-064

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: RESPONSE TO INDEPENDENT ASSESSOR'S OUT OF STATUTE
AUDIT DATED MAY 17, 2016

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

In her report issued May 17, 2016, the Independent Assessor detailed the audit she conducted of entries into the Department's Complaint Tracking System (CTS) during the time period from August 1, 2012 through August 1, 2013.

In that time period, 584 complaints were entered into the system, and 30 of those were closed as "out of statute" since the investigations were not completed within the one year statute of limitations period prescribed in the City Charter, section 1060(a).

This amounted to 5.14% of the investigations opened in that time period not being completed within the one year statute of limitations period. Of the 30 cases which went "out of statute," 19 were field cases, six were assigned to the Professional Standards Division (PSD) and five were assigned to the Alternative Process. The Assessor determined that 5.2% of the field cases and 2.8% of the PSD cases went "out of statute." Five out of seven cases (or 71% of the cases) assigned to the alternative process fell "out of statute."

The Department agrees with the description of the investigative process used both for field cases and those which remain within PSD, as well as the general criteria for determining which matters are assigned to the field, which include lower level complaints involving performance, behavior, punctuality, absenteeism, driving and parking violations and lost equipment.

The Assessor noted that of the 30 cases which went "out of statute," 18 of the complaints were made by other Fire Department personnel, and 12 were filed by

citizens and other external complainants (including one anonymous complainant who was a citizen, based on the nature of the complaint).

RECOMMENDATION

That the Board:

Receive and approve this report.

FISCAL IMPACT

Although there is no fiscal impact at this time, it is anticipated there will be a potential fiscal impact to implement the following programs pursuant to the Assessor's recommendations:

- New case management system
- Mediation program
- Department-wide investigations curriculum and on-line training

The Department is actively engaged in the development stages of these programs, however actual costs are yet to be determined.

DISCUSSION

While the Assessor's review of the CTS system seems to have revealed that there was no investigative work completed in 17 of the 30 cases which went "out of statute" in the field, that is not likely to be completely accurate. Since many of the field investigators were not proficient in the CTS system during the time period covered by the audit (which is a training issue currently being addressed by PSD), much of the investigative activity conducted in the field was not captured in the CTS comment or log sections.

Prior to the release of the Assessor's audit, the Department recognized the problem with the handling of the field cases. The Department has taken steps to ensure that cases assigned to the field are timely and thoroughly investigated, and that those investigations are properly documented.

The Department agrees that the first two recommendations of the Assessor, for increased accountability of supervisors and investigators, and for better training in the investigative process, will ensure that field investigations are completed in a timely and thorough manner. Training on the CTS system and investigative process will also increase familiarity with the system, and lead to better documentation of the investigations which are being conducted in the field and recorded in the CTS system.

The Department agrees that setting benchmarks for completing basic investigative tasks will help ensure that investigations are timely and thorough. The 2013 Department response to the Independent Assessor's 2010 assessment of the disciplinary process identified the following benchmarks:

1. The complainant intake interview should be conducted within the first two weeks of the assignment of the case to the investigator;

2. The completed investigation of complex investigations should be submitted for adjudication by the tenth month; and
3. The Department should complete the disciplinary process within 30 days of the member's service of the proposed penalty.

These benchmarks are realistic and PSD investigators are currently working to meet these benchmarks on their cases.

Additionally, the Department has adopted a 90 day benchmark from the dates that cases are referred to the field for completing the investigations and submitting them for adjudication. PSD has embedded investigators in the geographic bureaus to ensure that the assigned field investigators (Captains and Battalion Chiefs) are trained in the investigative process and in the use of CTS. These PSD investigators meet regularly with the Bureau staff to monitor the progress on the investigations pending in the Bureaus. Already this measure has paid dividends, resulting in fewer field cases being closed as "out of statute."

The Assessor's Six Recommendations

In her audit, the Independent Assessor makes six recommendations, with which the Department concurs.

1. The First Recommendation – to create a system of accountability including timelines for investigations, enhancing the notification system and using chronological logs

As to the first recommendation to create a system of accountability for investigators and supervisors to ensure cases are completed within the one year statute of limitations, the Department has adopted several important benchmarks, as noted above. Moreover, the Department is working on framing additional benchmarks for the timely assignment of cases to investigators, the interview of the complainant, the completion of the investigative report, the adjudication, the scheduling of the pre-disciplinary *Skelly* hearing, and the filing of charges with the Board of Fire Commissioners, when warranted.

The automatic email notification system currently employed to "tickle" important deadlines is working, but will be reviewed to see if it can be improved.

The investigators are already using the CTS comments section as a chronological log to document the investigative activities in their cases.

2. The Second Recommendation – to create a training curriculum and to ensure all members who conduct investigations are trained

The Department is strategically providing training to the assigned field investigators to handle the routine investigations, and is pairing the field investigators with dedicated PSD investigators who meet regularly in the geographic bureaus to ensure that those supervisors who are currently handling disciplinary complaints have the tools they need to complete their investigations. While the aspiration of creating a curriculum to train all

Department supervisors may be a long term goal, at this point, with limited resources, it is most important that those supervisors with active investigations receive proper training and support. The Department is providing that support, and the efforts have already shown a reduction in field cases falling “out of statute.”

3. The Third Recommendation – to develop a formal policy outlining the formal process for the alternative process

The Department agrees that it should develop a written policy approved by the Fire Chief and the Board of Fire Commissioners, for the investigation and resolution of matters currently subject to the alternative resolution process, which involve complaints against members in PSD or complaints which pose a conflict of interest.

4. The Fourth Recommendation – to create written procedures for investigating complaints against the Fire Chief

The Department concurs that it should develop a procedure for the investigation and resolution of complaints against the Fire Chief, which will be approved by the Fire Commission.

5. The Fifth Recommendation – the installation of a new case management system and development of uniform procedures for entries in CTS

The Department acknowledges that there are serious limitations with the current CTS system, which was never intended to be a case management system, but only a tracking system. PSD has adopted new procedures for case handling and file maintenance which will help ensure that CTS entries are uniform and accurate until a reliable case management system is adopted.

6. The Sixth Recommendation – Develop a mediation pilot program

The Department agrees that early dispute resolution, especially for employee vs. employee complaints, can prevent clusters of complaints between co-workers from being lodged. Many of these types of complaints stem from misunderstandings and miscommunications in the workplace, which are amenable to early intervention with dispute resolution measures, including outside mediation.

As noted by the Assessor, the routine investigative process can exacerbate employee vs. employee conflicts, where engaging the affected co-workers in a process to find common ground shows promise of bringing workplace harmony.

The Department is working on an Innovation Grant to develop and launch a mediation program, targeting specific types of complaints which can best be resolved through the mediation process. The Department agrees that the program should have measurable benchmarks to evaluate its effectiveness.

CONCLUSION

The Department recognizes that timely completion of both internal and external complaints is essential for the Department to engender trust and reliance on the discipline system. Allowing any matters to fall “out of statute” is unacceptable, both in

the field and within PSD. The Department has recently made significant changes in the assignment, triaging and investigation of cases to streamline the process and to ensure timely, thorough investigations and fair adjudications of cases entrusted to PSD.

PSD's metrics reported at the recent FireStat reflect the successes being achieved as the result of the new procedures being used by PSD and the close partnerships with the geographic bureaus to ensure proper handling of field matters.

Department Response prepared by Kristin M. Crowley, Commander, Professional Standards Division and Erin Joyce, Chief Special Investigator, Professional Standards Division.