

LOS ANGELES FIRE DEPARTMENT



RALPH M. TERRAZAS
FIRE CHIEF

January 26, 2017

BOARD OF FIRE COMMISSIONERS
FILE NO. 17-015

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: PROFESSIONAL STANDARDS DIVISION REPORT ON ALTERNATIVE
INVESTIGATIVE PROCESS

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 Withdrawn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

The Department has developed a formal procedure for the Alternative Investigative Process, which is being presented in this report. The Alternative Investigative Process is employed when complaints are received by the Department alleging misconduct by the Professional Standards Division (PSD) or members assigned to carry out the functions of the Division, or where investigations may cause a conflict of interest for PSD.

RECOMMENDATION

That the Board:
Receive and approve this report.

FISCAL IMPACT

The Department does not anticipate any fiscal impact at this time.

DISCUSSION

The Department has developed a formal procedure for the Alternative Investigative Process, described below. The Alternative Investigative Process is employed when complaints are received by the Department alleging misconduct by PSD or members assigned to carry out the functions of the Division, or where investigations may cause a conflict of interest for PSD.

The Alternative Investigative Process that is currently in place provides the Department with an internal procedure to maintain unbiased, objective and transparent investigations.

1. When is the Alternative Investigative Process triggered?

Normally, the PSD Commander will determine the need for the Alternative Investigative Process as complaints are received by the Department. The PSD Commander shall consider the following conditions to make the determination:

1. Whether the complaint implicates the conduct of PSD or members assigned to carry out the functions of PSD, and if so, whether the conduct, if true, would constitute misconduct.
2. Whether investigation of the complaint by PSD would create a conflict of interest, or the appearance of a conflict of interest, which would potentially impact the Division's ability to be impartial.

If there is sufficient cause to refer a case to the Alternative Investigative Process, the PSD Commander shall notify the Fire Chief in writing via a formal memorandum which explains the need for the Alternative Investigative Process. This memorandum will be maintained in the investigation file.

Upon concurrence of the Fire Chief, the Fire Chief will assign the appropriate Deputy Chief to manage the investigation. When assigning the Deputy Chief to manage the investigation, consideration will be taken of any potential conflicts of interest and the complainant's chain of command.

2. What is the Notification Procedure for Investigations Assigned to the Alternative Investigative Process?

When an investigation is assigned to the Alternative Investigative Process, the assigned Deputy Chief will receive the complaint as it was initially received by the Department. The Command Staff of Administrative Operations will provide a list of qualified investigators and a list of qualified members to complete the adjudication or serve as the *Skelly* officer.¹

The Deputy Chief will assume the role normally fulfilled by the PSD Commander. The Deputy Chief will select the *Skelly* Hearing Officer and make any proposal for disciplinary action to the Fire Chief.

¹ The list of qualified investigators will list all Captains and Chief Officers with prior PSD investigation experience. The list of qualified members to complete the adjudication or to serve as the *Skelly* officer will include those Chief Officers with prior experience adjudicating discipline matters, and those Chief Officers who completed specific adjudication training, who will work in concert with the City Attorney to adjudicate cases assigned to the Alternative Investigative Process.

3. How are Investigators Assigned?

The Deputy Chief will select the necessary number of investigators required to conduct the investigation. During the selection process, consideration should be given to the following:

1. The training and experience of proposed investigator;
2. The rank of proposed investigator;
3. The availability of the proposed investigator;
4. The current affiliation of the proposed investigator with PSD or the subject of the investigation; and,
5. The proposed investigator's caseload of matters assigned to the Alternative Investigative Process

The Deputy Chief may determine the need to select a qualified member to complete the duties of the adjudicator. A list of qualified members with experience as an adjudicator of Department discipline cases or specific training in the adjudication process will be provided to the Deputy Chief at the time the investigation is assigned to the Alternative Investigative Process.

4. How is the Investigation Conducted in the Alternative Investigative Process?

The selected investigators will conduct the investigation and comply with all applicable laws and provisions set forth within the City Charter and appropriate policies, including the applicable MOUs and the Firefighters Procedural Bill of Rights. The investigators will have access to all pertinent investigation materials, including the investigation notifications, the interview notifications and the admonitions. The purpose is to ensure that all investigations conducted by the Department, whether by PSD, or in the field, or in the Alternative Investigative Process, are handled in an even-handed and consistent manner.

5. How is the Final Investigation Report and Adjudication Completed for Investigations Conducted in the Alternative Investigative Process?

The selected investigators will complete the investigation report and the selected adjudicator will complete the adjudication of the investigation conducted in the Alternative Investigative Process. The adjudicator will review the investigative reports and evidence, make a recommendation as to whether to proceed with discipline or not, and will determine the recommended level of discipline. In the Alternative Investigative Process, the assigned Deputy Chief will select a Chief Officer other than the adjudicator to serve as the *Skelly* officer. The member selected to complete the adjudication may also participate in the *Skelly* hearing, as necessary.

6. Who Provides Administrative Support for Investigations in the Alternative Investigative Process?

Administrative Operations clerical staff will prepare required forms and process documentation as requested by the investigators selected for the investigations assigned to the Alternative Investigative Process. The Moderator assigned to PSD will normally complete the closure of the case within the Complaint Tracking System and forward appropriate disposition notifications. If the members normally utilized by PSD to perform these functions are implicated in the allegations of the case, appropriate personnel will be identified to assist with the investigation.

CONCLUSION

The members assigned to PSD are committed to conducting themselves in a manner which reflects the highest standards of the Department. To that end, the Department should adopt a formal procedure for the investigation of cases involving conflicts of interest or allegations of misconduct by PSD. The mere appearance of impropriety in the disciplinary process may erode the trust of Department members and the public. The procedures outlined in this report delineate the procedure for handling investigations assigned to the Alternative Investigative Process.

Board report prepared by Karen Richter, Acting Commander, Professional Standards Division and Erin Joyce, Chief Special Investigator, Professional Standards Division.