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BOARD OF FIRE COMMISSIONERS
FILE NO. 18-022

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: DEPARTMENT RESPONSE TO INDEPENDENT ASSESSOR AUDIT OF
CLOSED CASES - FIRST QUARTER 2017

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 Withdrawn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

As directed by the Board of Fire Commissioners, the Los Angeles Fire Department (LAFD) is providing a combined response to the audits of the LAFD Closed Cases in the Complaint Tracking System (CTS) during the first quarter of 2017 conducted by the Office of the Independent Assessor (OIA).

RECOMMENDATION

That the Board:
Receive and file.

DISCUSSION

The OIA conducted two audits of cases that were closed in the Los Angeles Fire Department's Complaint Tracking System during the first quarter of 2017. The audits consisted of an overall analysis of 102 cases, including 10 identified as Emergency Medical Services (EMS) complaints. The OIA assessed the quality of investigations, adjudications, trends, and provided recommendations to the Department to enhance the manner in which the Department handles complaints of misconduct.

The Department has taken steps to improve the completeness and quality of investigative reports in line with the OIA audit.

The Assessor's 8 Recommendations

The audit contains 8 recommendations (*in italics below*), which the Department concurs with.

1. The First Recommendation

Conduct a thorough and complete investigation in every case.

As to the first recommendation, the Department has acknowledged through review, that completed investigations require a formal and thorough initial complaint review and on-going management process. In fulfillment of this, in January 2018, the Department developed and implemented the CSI (Chief Special Investigator) Investigative Tracking form for PSD's use. The form includes a series of safeguard and checks to be considered and monitored by the Chief Special Investigator, and is anticipated to generate more thorough and complete investigations by PSD staff. The form includes; identification of the scope of the investigation, timeline delineation, involved parties, evidence collection, and support addenda.

The CSI Investigative Tracking form is a living document intended to be utilized at the time the complaint is assigned for investigation and would be referred to and modified by the Chief Special Investigator throughout the life of the investigation. It serves as an overview document for internal review and evaluation upon the completion of any investigation.

Through discussions with the PSD investigators embedded in Department Bureaus, a variation of this form will be developed for field usage and located in the CTS "Help" tab by May 2018.

2. The Second Recommendation

Record all interviews.

As obtaining and securing audio recorded statement interviews is an essential element of the Department's investigative process, the Department recognizes that this has been an inconsistent practice in investigations completed by the field. In December 2017, the Department procured and distributed throughout its Bureaus, 34 new and easy to use audio recording devices to resolve this issue. The Department also established clear guidelines with instruction as to their usage and implementation, which includes who can refuse to be audio recorded and how to document that refusal.

3. The Third Recommendation

Employees must be told their rights, when a subject or witness of an investigation.

The Department concurs with this assessment, and in May 2017, it updated the admonition forms and uploaded them into the CTS "Help" tab for Department-wide use. Since the adoption of the Firefighters Procedural Bill of Rights, the use of structured admonition forms has been an on-going practice for investigations conducted by PSD staff.

And now, for consistency purposes, all Bureau representatives assigned field cases are trained through embedded PSD investigators on the proper use and recordkeeping of these admonitions, including documenting a member's refusal to sign that admonition.

4. The Fourth Recommendation

When training is given as a result of a complaint, the Department must document the training by type, selection, (showing the nexus between the training and complaint) why it was appropriate, who was trained, who conducted the training and when it was performed.

The Department concurs with the OIA that upon completion of an investigation where training has been identified to be used as a resolution there must be a nexus between the recommended training and the violation found. To address this, the Department is developing a Field Training Resolution Matrix, which is set to be completed in May 2018.

This matrix will be used to identify the type of training required, based upon the violation. The matrix will include; all pertinent Department policies, and rules, which would align with specific violations. Once the alignment of training is identified, it would then be assigned; providing a record of the assignee, identified subject and timeline provided for completion.

5. The Fifth Recommendation

The Department should reduce the number of complaint categories, define the complaint category and disseminate the information to all members.

The Department agrees with the OIA that the list of complaint categories within CTS is extensive. Originally, CTS was intended to be used only as a depository for limited information relating to a complaint. However, CTS' value has steadily increased and it has become a management tool that allows for the identification of complaint trends Department-wide. The elimination of complaint categories could significantly reduce CTS' value and hinder management's ability to effectively address developing trends. Furthermore, because CTS is outperforming its original intent, historically, any requested modifications to its format have been slowly accomplished and have been problematic due to the system's configuration and technological challenges.

The Department agrees that the complaint categorizations should be defined and available for all members to view on the CTS "Help" tab, which is accessible without having to first file a complaint. In response, the Department is developing complaint type definitions and examples, and will eventually place this information in the CTS, "Help" tab by May 2018. Since only specific PSD staff is tasked with the initial categorization of all complaints Department-wide, it is anticipated these definitions will increase PSD's consistency in this area.

6. Sixth Recommendation

In every case, the Department must document the adjudication for each allegation and the justification (supported by the evidence) for each allegation.

The Department concurs with this recommendation, and in December 2017 adopted a model that is consistent with the recommendation of the Independent Assessor. Cases are adjudicated using a combination of the line item method encapsulating each allegation under its own heading, followed by a brief analysis. In this manner, the reader is able to easily discern the findings that are applied to each allegation and readily understand how the determination was made to conclude the adjudication category applied to each allegation.

7. Seventh Recommendation

Ensure that cases are adjudicated (settled) in accordance with existing adjudication definitions. This includes addressing the issue that findings of false allegations can result in an adjudication of either Non-Disciplinary or Unfounded.

The Department concurs with this recommendation, and in December 2017 PSD adopted an adjudication model in line with OIA recommendations, which ensures that findings of false allegations are adjudicated as Unfounded.

8. Eighth Recommendation

Create written guidelines for determining the types of cases for which Sustained, Non-Punitive is an appropriate adjudication.

The Department concurs with the OIA recommendation, and as a result is currently conducting research and developing written guidelines that will delineate which case types would justify Sustained, Non-Punitive as an appropriate adjudication. The preliminary guideline is set to be completed in June 2018, and will be continued to be evaluated for consistency.

CONCLUSION

The Department recognizes that a timely, complete and thorough investigation is essential to ensure that the Department handles complaints of misconduct appropriately. To that end, the Department has recently made significant changes to safeguard and enhance the investigative process, based on the OIA audit recommendations.

Board report prepared by Stephen L. Gutierrez, Assistant Chief, Professional Standards Division.