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MEETING DATE: DEC. 16, 2014

BOARD OF FIRE COMMISSIONERS
FILE NO. BFC 14-138

Date: December 9, 2014

To: Board of Fire Commissioners

From: Office of the Independent Assessor

Subject: AUDIT OF THE ARSON/COUNTERTERRORISM SECTION

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 Withdrawn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	

Recommended Action:

1. APPROVE the Office of the Independent Assessor's (OIA) Audit of the Arson/Counterterrorism Section.

Discussion:

The Los Angeles Fire Department's (LAFD or Department) Arson/Counterterrorism Section (ACTS) was created in 1918. Pursuant to the California Penal Code, ACTS personnel are sworn peace officers with authority to arrest and carry firearms. ACTS is essentially a law enforcement agency within the Fire Department with responsibilities, potential risks and liabilities, and implications for public safety not traditionally associated with the fire service.

In 2008, at the request of LAFD, the Los Angeles Police Department (LAPD) conducted an audit (LAPD Audit) of the quality of ACTS investigations. Findings and recommendations were made and, at the direction of the BOFC, the Department formulated an Audit Implementation Plan.

Although the Implementation Plan was heard twice by the BOFC (the last time in January 2010), the OIA was unable to identify any further hearings on the matter.

This audit was conducted by the OIA to:

- 1) Assess the status of implementation of recommendations from the LAPD Audit,
- 2) Assess the quality of recent ACTS investigations, and
- 3) Determine if members working in ACTS possess the requisite background qualifications and firearms training required for the assignment.

The OIA's Audit Objectives were:

Objective No. 1: Policies and Procedures

In the wake of the LAPD Audit, the Department endeavored to create an Arson Procedures Manual, incorporating a comprehensive but outdated Operations Procedures Manual, a more current Arson Procedure Bulletin, and ACTS clerical procedures. The Department reported that this is still a work in progress. The OIA agrees that writing an inclusive Arson Procedures Manual should be pursued by the Department.

Objective No. 2: Quality of Investigations

After reviewing 48 ACTS investigations that were cleared by arrest in 2013, the OIA found that the overall quality of ACTS investigations is good. The OIA also acknowledges the hard work and dedication of ACTS personnel. Additionally, representatives from the District Attorney's Office praised the work of ACTS investigators. However, to enhance investigative practices the OIA made several recommendations for policies to address issues such as preserving crime scenes, identifying witnesses, interviewing all witnesses, and creating one ACTS response protocol, among others.

Objective No. 3: Investigative Training

Department managers are committed to adopting a formal training program for ACTS investigators and have tried to do this in the past. The OIA supports developing a standardized training plan to augment investigator knowledge and skills.

Objective No. 4: Supervisory Oversight

Some of the cases reviewed by the OIA demonstrated the need for supervisory oversight by ACTS captains. The current ACTS management recognized this and has begun implementing related measures. The OIA also made recommendations for policies regarding this issue.

Objective No. 5: Background Investigations and Firearms Qualifications for Peace Officers

The OIA reviewed the applicable agreements involving the background investigation, psychological evaluation, and other requirements for ACTS personnel, and determined that some of the requirements had not been met. LAFD began the process for complying with the most recent agreement and the OIA recommends this be completed as soon as possible.

The OIA thanks the Fire Department, especially ACTS personnel, for their cooperation and collaboration in the research for this audit. The current Battalion Chief began supervising ACTS in January 2013 and both the Captain I and Captain II were appointed to the Section in 2014. All three made a positive impression and the OIA commends them for their on-going efforts. The OIA would also like to express appreciation to the City's Personnel Department, the Los Angeles County District Attorney's Target Crimes Division and the Los Angeles County Sheriff's Department Arson Explosives Detail for their assistance. Finally, the OIA would like to thank personnel at LAPD for providing firearms qualification records and policies related to several of the issues discussed in this

audit.

The OIA worked with the Fire Department, Personnel Department, and District Attorney's Office in an effort to ensure the information presented is accurate.

I am available to provide any additional information the Commission may require.

Respectfully submitted,

A handwritten signature in black ink that reads "Sue Stengel". The signature is written in a cursive, flowing style.

SUE STENGEL
Independent Assessor
Board of Fire Commissioners

Attachment

c: Ralph Terrazas, Fire Chief

LOS ANGELES BOARD OF FIRE COMMISSIONERS



AUDIT OF THE LOS ANGELES FIRE DEPARTMENT'S ARSON/COUNTERTERRORISM SECTION



OFFICE OF THE INDEPENDENT ASSESSOR

SUE STENGEL
Independent Assessor

December 9, 2014

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I. INTRODUCTION

History, Staffing and Responsibilities

The Los Angeles City Charter gives the Los Angeles Fire Department (LAFD or Department) the power and duty to conduct fire investigations in the City of Los Angeles.¹ The Arson Section is a specialized unit within the Fire Department, responsible for the investigation of fires in which there is knowledge or suspicion the crime of arson has been committed or attempted. The responsibility also extends to the detection and apprehension of those who are involved in criminal fires.² LAFD's Arson Bureau was originally formed in 1918. Later it was called the Arson Investigation Section and in 2004 it took on an active role in counterterrorism and tactical planning. Subsequently, it became known as the Arson/CounterTerrorism Section (ACTS or Section).³

Pursuant to California Penal Code Section (PC§) 830.37, ACTS investigators are sworn peace officers with authority to arrest and carry firearms.⁴

ACTS is currently made up of a Battalion Chief, two Captains (a Captain I and a Captain II), a Senior Investigator, and 17 Investigators. ACTS reports directly to the Emergency Operations Bureau. The Department Manual of Operations (MOP) defines the role of ACTS and that of each rank within ACTS.⁵ The relevant MOP sections are included as Attachment A.

Letters of Agreement (LOA) dating back to at least 1993⁶ have been executed between the LAFD and the Los Angeles Police Department (LAPD) delineating procedures and responsibilities for arson investigations. The most recent LOA, which took effect January 7, 2013, gives ACTS responsibility for all arson investigations occurring within the City, unless a major crime other than arson (such as murder), is involved.⁷

Prior Audit

In 2008, the LAFD asked LAPD's Audit Division⁸ to conduct an audit of the quality of ACTS investigations. LAPD completed that audit (LAPD Audit) and made recommendations to LAFD.⁹ In response, LAFD formulated an Audit Implementation Plan (Implementation Plan or Plan).¹⁰ LAPD's Audit and the Department's Audit Implementation Plan were presented and discussed at Board of Fire Commissioners' (BOFC) meetings. The last time the LAPD Audit and

¹ Los Angeles City Charter Article X Section 520.

² Fire Investigation Manual, Book 83 Section I.C.

³ *125 Years of Service and Protection, The Los Angeles Fire Department*, Los Angeles Fire Department Historical Society 2011. <http://www.nxtbook.com/faircount/LAFD/LAFD/LAFD/index.php?startid=49#/0>. Pages 47-49. Accessed October 8, 2014.

⁴ Penal Code Section 830.37 states, "[t]he following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty [...] These peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency:

(a) Members of an arson-investigating unit, regularly paid and employed in that capacity, of a fire department or fire protection agency of a county, city, city and county, district, or the state, if the primary duty of these peace officers is the detection and apprehension of persons who have violated any fire law or committed insurance fraud."

⁵ Manual of Operations Volume 1 Section 1/3-38.10-38.30.

⁶ Refer to BFC No. 09-080, Page 2.

⁷ Letter of Agreement between Los Angeles Police Department and Los Angeles Fire Department, effective January 7, 2013.

⁸ LAPD's Audit Division is now known as the Internal Audit and Inspections Division.

⁹ Refer to BFC No. 09-036

¹⁰ Refer to BFC Nos. 09-130 and 09-130-R1.

Implementation Plan were discussed at a BOFC meeting was January 19, 2010. The OIA was unable to identify any further oversight of these issues since that date.

This audit was conducted by the Office of the Independent Assessor (OIA) to:

- 1) Assess the status of implementation of recommendations from the LAPD Audit,
- 2) Assess the quality of recent ACTS investigations, and
- 3) Determine if members working in ACTS possess the requisite background qualifications and firearms training required for the assignment.

Acknowledgements

The OIA thanks the Department, especially ACTS personnel, for their cooperation and collaboration in the research for this audit. The current Battalion Chief began supervising ACTS in January 2013 and both the Captain I and Captain II were appointed to the Section in 2014. All three made a positive impression and the OIA commends them for their on-going efforts. The OIA would also like to express appreciation to the City's Personnel Department, the Los Angeles County District Attorney's Target Crimes Division and the Los Angeles County Sheriff's Department Arson Explosives Detail for their assistance. Finally, the OIA would like to thank personnel at LAPD for providing firearms qualification records and policies related to several of the issues discussed in this audit.

The OIA worked with the Fire Department, Personnel Department, and District Attorney's Office in an effort to ensure the information presented is accurate.

Audit Contents

Section II of this report addresses the purpose of this audit and Section III provides background information. Sections IV and V are the audit objectives, and scope and methodology. The audit findings are discussed in Section VI. A summary of the OIA's recommendations are presented in Section VII and Section VIII is the conclusion.

II. PURPOSE

The ACTS is essentially a law enforcement agency within the Fire Department with responsibilities, potential risks and liabilities, and implications for public safety not traditionally associated with the fire service. In a 2009 draft report to the BOFC, the then-Fire Chief wrote, "The power of arrest, the carrying of a firearm, and the independent nature of the work [of ACTS] is far beyond the customary duties and responsibilities of other sworn members of the Department."¹¹

This audit was conducted by the Office of the Independent Assessor (OIA) to:

- 1) Assess the status of implementation of recommendations from the LAPD Audit,
- 2) Assess the quality of recent ACTS investigations, and
- 3) Determine if members working in ACTS possess the requisite background qualifications and firearms training required for the assignment.

¹¹ Refer to BFC No. 09-120, Page 2.

III. BACKGROUND

In 2008, the Department requested that the Los Angeles Police Department's Audit Division assess the quality of ACTS investigations. The LAPD Audit was completed in January 2009, received by the BOFC on February 26, 2009 and heard in open session on April 22, 2009.¹² The LAPD Audit addressed the following four objectives:

- Polices and Procedures
- ACTS Investigated all Assigned Arson Incidents
- Quality of Investigations
- Supervisory Oversight

At the BOFC's April 22, 2009 meeting, the Department was directed to provide a preliminary report within 30 days indicating their progress related to analyzing and meeting the recommendations. The BOFC asked that the objectives be completed no later than six months from the date of the meeting. The Department created a process for developing an audit implementation plan. Audit implementation recommendations were developed by the ACTS command team and then forwarded to a "Guiding Coalition" [working group] which consisted of selected members representing day and platoon investigators, civilian staff and the captains. When consensus was reached to accept or modify an LAPD Audit recommendation, that consensus was communicated to a Management Review Panel for input and then forwarded to the relevant Chief Deputy for a final decision.¹³ The Audit Implementation Plan was presented to the BOFC at their December 15, 2009 meeting. The Department reported that consensus was reached on all the LAPD Audit recommendations.¹⁴ The BOFC received and filed the Department's report and instructed the Department to revise Goal 7, which it did, and the final Implementation Plan was heard by the BOFC on January 19, 2010. Table 1 (Attachment B) outlines the LAPD Audit findings and recommendations and the Department's Audit Implementation Plan Goals. The BOFC did not hear the matter again.

IV. OIA'S AUDIT OBJECTIVES

Objective No. 1: Policies and Procedures

Objective No. 2: Quality of Investigations

Objective No. 3: Investigative Training

Objective No. 4: Supervisory Oversight

Objective No. 5: Background Investigations and Firearms Qualifications for Peace Officers

V. AUDIT SCOPE AND METHODOLOGY

In preparation for this audit, the OIA reviewed the LAPD Audit and reports to the Board of Fire Commissioners, listened to recordings of past BOFC meetings, reviewed relevant Letters of Agreement, manuals, policies, procedures, and laws. In addition, the OIA met with some former ACTS supervisors, LAFD command staff, representatives from the Los Angeles County District Attorney's Target Crimes Division which prosecutes major arson cases and works closely with ACTS, representatives from the Los Angeles County Sheriff's Department Arson Explosives Detail, and representatives from the City's Personnel Department. Also, the OIA reviewed firearms

¹² Refer to BFC No. 09-036.

¹³ BFC No. 09-130.

¹⁴ *Id.* at Page 4.

qualifications training records and other training information. Finally, the OIA met several times and had on-going discussions with ACTS personnel throughout the audit process.

In 2013, ACTS investigated 589 cases. Of those, 334 were arson fires and 255 were non-criminal fires (accidental or undetermined cause). 95 were cleared by arrest and 30 were cleared "other."¹⁵

¹⁶To assess the quality of recent investigations, the OIA reviewed a random sample of investigations that had been cleared by arrest in 2013. At the time the sample was taken, the total number of cases that were cleared by arrest for calendar year 2013 was 94.¹⁷ Using random sampling, the OIA selected 48 of those cases.¹⁸ During the review, the OIA found that in one case no arrest had been made. Therefore, that case was replaced with another.

The OIA developed a matrix to evaluate the investigations, which examined issues such as, evidence collection, canvassing for witnesses, interviewing all witnesses, supervisory review, constitutional concerns, and proper case file documentation. After its initial review of the cases, the OIA recognized the need for further evaluation of the Department's compliance with policies and procedures defining the circumstances under which ACTS is dispatched to and responds to a scene. As a result, a supplemental matrix was developed and used to make this assessment. All 48 cases were analyzed again using the supplemental matrix. The OIA conducted a first and second level review of each investigation for both matrices.

VI. AUDIT FINDINGS

Objective No. 1 - Policies and Procedures

2009 LAPD Audit Findings and Recommendations and LAFD Audit Implementation Plan Goals

The LAPD Audit found that the ACTS Operations Procedure Manual (OPM) provided an adequate framework for the management and operations of ACTS, but needed to be reviewed, updated, formally approved by the Department, and distributed to ACTS personnel. LAFD proposed creating a new Arson Procedure Manual (APM) that incorporated the OPM, Arson Procedure Bulletin (APB), clerical procedures and other related documents.

OIA Audit Procedures

The OIA reviewed a copy of the OPM and APB.

¹⁵ Cleared by Arrest (CBA) is defined in Arson Procedure Bulletin (APB) No. 13 as, "1) [t]here is an arrest of at least one viable suspect in your case and you obtain a filing from either a DA or CA [District Attorney or City Attorney]. 2) Your suspect is arrested on your arrest warrant. 3) For Misdemeanors: Citation with date for court. FBI guidelines also permit certain types of Juvenile cases that do not meet the above criteria to be considered CBA." Cleared Other is defined in APB No. 13 as, "1) DA/CA Rejects other than those rejected for Further Investigation. If reject is for Further Investigation the correct category is Open with Follow-up. 2) Cases in which you have at least one identified / known suspect, know the suspect's location, but circumstances beyond your or your agency's control prevent arrest and prosecution of the offender. Example: Unabomber, Suspect dies before arrest can occur, Suspect institutionalized indefinitely, DA/CA declines to prosecute due to mental illness, number of cases already filed. 3) Juveniles that are referred to an outside agency, referred to SAFE or Counseled and Released."

¹⁶ These statistics were provided to the OIA by ACTS on November 21, 2014.

¹⁷ On June 17, 2014, ACTS informed the OIA that there were 94 cases cleared by arrest in 2013.

¹⁸ The OIA used a one-tailed test with a confidence level of 95 percent; +/- 4 percent error rate.

OIA Audit Findings

According to the Foreword (written in 1982) the purpose of the ACTS OPM “is to present, as briefly as possible, the usual practices and procedures of the Arson Unit. While not a policy manual as such, it does state Unit policy concerning normal practices and procedures.” The OPM addresses issues such as arrest procedures, arrest warrants, searches and search warrants, investigations, subpoenas, report writing, and training. The most recent policy in the OPM appears to have been drafted in 1995. Some of the forms and procedures date back to the 1970s.

The APB contains 22 Bulletins which “present the usual practices and procedures of the Arson Investigation Section.”¹⁹ Of those 22 Bulletins, nine were drafted/revised since the LAPD Audit.²⁰ The Department reported that these were approved by the ACTS chain of command. Of the bulletins that have not been updated, the oldest date back to 2001.

The OIA discovered that there was more than one version of at least one APB. While conducting this audit, the OIA learned that the Commanding Officer of ACTS had a different version of APB No. 5: Weapon Qualification, Revised 09/2001 [September 2001] than the version presented to the OIA. This created confusion as the OIA attempted to determine which standard applied and by which standard ACTS should be measured (this is discussed in greater detail below in Objective No. 5). While this report was being written, ACTS personnel immediately resolved the conflict by writing a new APB No. 5. The Department reported that the new APB was approved by the ACTS chain of command. Further, the ACTS captains sent the APB via email to all investigators. Additionally, the new APB No. 5 will be discussed during line-ups and this will be documented in Department training records. The OIA commends the Department for its swift action on this matter.

ACTS reported to the OIA that the APB is designed to supersede the OPM. However, the information in the OPM is more comprehensive than the APB. Further, the Department’s Audit Implementation Plan Goal was to create an Arson Procedures Manual incorporating the OPM and APB (and other related procedures). ACTS reported that this project is still a work in progress.

Recommendation

The OIA agrees with the LAPD Audit recommendation and the Department’s Audit Implementation Plan to create an Arson Procedures Manual, and, upon completion, seek formal approval and distribute to all ACTS personnel. The OIA recognizes that this may be a daunting task for ACTS not only in light of the volume of the work, but also because there are a number of areas which require updated legal procedures and citations. The OIA encourages the Department to examine the feasibility of bringing in additional Department, City or outside resources to work in conjunction with ACTS to rewrite the manual. Furthermore, the Department should consult with the City Attorney’s office before a new manual is finalized.

Objective No. 2 – Quality of Investigations

2009 LAPD Audit Findings and Recommendations and LAFD Audit Implementation Plan Goals

The LAPD Audit identified cases in which ACTS did not collect and preserve evidence, cases lacking documentation that scenes were canvassed for witnesses, and cases in which not all witnesses were interviewed. The LAPD Audit recommended enhanced investigator training

¹⁹ Arson Procedure Bulletin Foreword.

²⁰ Four of the updated/revised Bulletins were written since the current Battalion Chief started in ACTS.

requirements and standards (discussed in Objective No. 3 below), establishing a joint task force program or personnel loan program wherein detectives from experienced law enforcement agencies and/or LAPD would provide hands-on criminal investigation training, and establishing formal LAFD procedures for first responders to identify witnesses and collect their contact information for follow-up by ACTS investigators.

The LAFD Audit Implementation Plan Goals were to establish on-going training and certification requirements that exceed minimum training standards for ACTS personnel and develop training for first responders to provide basic tools necessary to conduct thorough investigations and adequately identify witnesses to assist investigators during the investigative process. In regard to a personnel loan program, the Department proposed conducting a feasibility study and presenting the findings to the Guiding Coalition and management group to prepare an appropriate implementation plan.

OIA Audit Procedure

To assess the quality of ACTS investigations, the OIA reviewed a random sample of 48 cases that had been cleared by arrest in 2013. The OIA conducted a first and second level review of each investigation. The OIA also reviewed policies, procedures and laws related to the investigations. Additionally, the OIA reviewed LAPD policies and California Peace Officer Standards and Training (POST)²¹ Learning Domain #30.

Furthermore, the OIA assessed the Department's compliance with policies and procedures defining the circumstances under which ACTS is dispatched to and responds to a scene.

Finally, the OIA surveyed some of the fire departments in California regarding loan programs with law enforcement agencies.

OIA Findings

A. Investigative Practices

In its review of the investigations, the OIA found that the overall quality of the investigations conducted by ACTS was good. Furthermore, the OIA met with representatives from the District Attorney's (D.A.) office who indicated that the quality of the work of ACTS is among the top three agencies for which the D.A. prosecutes arson cases.²² Both the LAPD Audit and the D.A.'s representatives pointed out that ACTS investigators are fundamentally trained and experienced in firefighting rather than law enforcement and criminal investigations. The OIA identified (and discussed with the D.A.'s representatives) some areas of the ACTS' investigations that could be improved. Similar to the LAPD Audit, the OIA identified cases in which one or more of the following issues was noted; crime scene preservation, canvassing for witnesses, and interviewing all witnesses.

Pursuant to LAFD's rules and regulations, conducting investigations is the responsibility of both the LAFD first responders and the ACTS investigators. The Incident Commander has responsibility for determining the most probable cause of a fire²³ and ACTS is responsible for the investigation of

²¹ According to the POST website, "The Commission on Peace Officer Standards and Training (POST) was established by the Legislature in 1959 to set minimum selection and training standards for California law enforcement. <https://post.ca.gov/about-us.aspx>. Accessed October 7, 2014.

²² The OIA noted that the representatives from the D.A.'s Target Crimes Division work with and advise ACTS on major cases only. All other arson cases are prosecuted by Deputy D.A.'s in the field.

²³ Fire Investigation Manual - Book 83, Section I.C. and Manual of Operation Section 2/1-63.01.

fires in which there is knowledge or suspicion that the crime of arson has been committed or attempted.²⁴

The OIA determined that the LAFD's Fire Investigation Manual, otherwise known as Book 83, assists members in performing their duty to determine the cause of fires. Book 83 was last revised October 1996.

Notably, Book 83 does not require canvassing for witnesses, identifying and obtaining witness contact information from those who are at the scene, or interviewing all witnesses.²⁵ However, pursuant to the Audit Implementation Plan, ACTS investigators provide training for non-ACTS supervisors (Incident Commanders) about scene preservation, evidence collection, gathering contact information from witnesses, and more. At these training sessions, ACTS discusses techniques for canvassing for witnesses (and surveillance cameras), interviewing witnesses, scene preservation, and related documentation. The OIA commends ACTS for creating and presenting this training. Consistent with this training, the Department should develop policies reflecting the responsibilities of first responders and ACTS investigators for engaging in activities that will lead to more thorough and complete investigations. The prospective policies should reflect best practices for:

- Crime scene preservation
- Canvassing for witnesses and surveillance cameras
- Identifying and obtaining contact information from all witnesses
- Interviewing all witnesses

LAPD's policies and POST's Learning Domain #30 could be instructive to LAFD. LAPD Manual Section 4/203.20 addresses investigative responsibilities for field units. According to the policy, a preliminary investigation must be conducted and include, whenever applicable, canvassing the area for additional witnesses. Canvassing efforts and results must be documented under the Canvassing heading in the narrative of the report and, if investigating officers are assigned and canvassing has not been done, the investigating officers are responsible for canvassing.

POST's Training and Testing Specifications for Learning Domain #30, Crime Scenes, Evidence and Forensics states that "[p]eace officers must have a general understanding of the total range of basic criminal investigation procedures in order to make the appropriate decisions regarding the identification and preservation of physical evidence at the scene of a crime." This includes containing and protecting the crime scene for proper evidence collection, locating and interviewing victims and witnesses, identifying other sources of information, and collecting all available information necessary to write a clear and accurate report."

ACTS personnel informed the OIA that they are drafting a Department Training Bulletin to address these issues.

²⁴ Fire Investigation Manual - Book 83 Section I.C.

²⁵ Chapter VI, Section 6 of the OPM states, "A basic starting point in the investigation is a careful examination of the fire scene - determining cause of the fire and responsibility for the burning [...] An associated part of fire scene examination is [...] photographing pertinent portions of the fire scene and evidence; interviewing firefighters, witnesses, owners, and occupants, collecting and marking/tagging evidence, [...]" Section 7 continues, "[s]ystematically search out all available evidence: Witnesses, material objects, and so on [...]"

The following cases are examples in which the issues of crime scene preservation, canvassing for witnesses and interviewing all witnesses were identified by the OIA.

Crime scene preservation

In this case, the suspect was arrested by LAPD for pouring lighter fluid and rubbing alcohol around his room and holding a lighter and threatening to burn down the house and kill everyone in it. LAPD officers interviewed the eyewitnesses at the scene. According to the reports in the investigative file, ACTS did not learn of this case until LAPD called the following day.²⁶ The ACTS investigators did not search the residence nor recover the evidence until two days after being notified. Neither the scene, nor any potential evidence was preserved during those two days. The only information regarding the search was contained in the property report which did not provide legal justification for the search or an explanation as to why the evidence had not been recovered sooner.

ACTS investigators advised the OIA that the LAFD captain (Incident Commander) who responded to the incident telephoned ACTS from the scene (before the suspect was arrested) and reported that LAPD was at the scene, the case looked like a suicide attempt, the suspect had poured fluid on himself, there was no burning, and LAPD advised that it was not necessary for ACTS to respond.²⁷ ACTS was also informed by the Incident Commander that LAPD intended to place the suspect on a "5150"²⁸ hold when he was arrested, but ACTS learned the following day that LAPD arrested the suspect for attempted arson instead. Additionally, ACTS explained that although it was not documented, consent to search the residence had been given.²⁹ Finally, ACTS reported to the OIA that there had been a problem with the lead investigator being injured on duty causing some confusion in pursuing the investigation.³⁰ The OIA noted that none of this information was in the investigative file.

²⁶ The OIA noted that LAFD responded to this incident and pursuant to Manual of Operation Section 2/1-63.10, the Incident Commander was required to request an immediate response from ACTS. The Department's ACTS response protocol is discussed in detail below.

²⁷ MOP sections 1/2.63-10(k) and (l) state, "[t]he presence of police units on the scene does not relieve the Incident Commander of the responsibility for requesting A-Unit [Arson Unit] response when any of the above conditions exist." One of those conditions is "[t]he Incident Commander has an eye witness of the arson crime at the scene."

²⁸ California Welfare and Institutions Code Section 5150 provides, "[w]hen a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer [...] may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services [...]"

²⁹ A search warrant is generally required for law enforcement officers to search a home, but a warrantless search is permissible when officers obtain consent to search [from a legally appropriate party]. *Fernandez v. California* (2014) 134 S. Ct. 1126.

³⁰ The OIA noted that the ACTS Captain approved the investigative report on January 15, 2013, before any evidence was collected and booked. The report reflects that the evidence was collected on January 16, 2013. The property report is dated January 30, 2013. The report states that "[o]n January 31, 2103, the property was transferred into LAPD custody." The supervisor's signature on the property report is undated. APB No. 2 states that "[a]ll evidence shall be booked into an LAPD facility as soon as practical, but shall not exceed 96 hours from the time it was originally collected. Any deviation from the 96 hour time frame will require approval from the Evidence Coordinator or an ACTS supervisor." It is unclear if the supervisor approved the more than 96 hour delay in transferring the evidence to LAPD.

In another example, a suspect used a spray can as a torch to set the interior of a vehicle on fire. LAFD responded to the fire, but did not call ACTS.³¹ LAPD responded to the incident and notified ACTS that the incident was arson. The relevant timeline is below.

- 2:56 A.M. - original fire alarm.
- 3:00 A.M. – first LAFD resource arrives on scene.
- 4:00 A.M. - LAPD notified ACTS.³² ACTS did not respond to the scene, but rather asked LAPD to obtain witness contact information.
- 4:30 A.M. (approximately) - ACTS investigator called and interviewed the LAFD Incident Commander (who was no longer at the scene).
- 8:30 A.M. - the original ACTS investigator called a second ACTS unit and requested that the second unit respond to the scene to take photographs.
- 1:27 P.M. - second ACTS unit arrived at the scene and took photographs.

The report does not document efforts to preserve the scene for the arrival of ACTS. The original ACTS investigators responded to the scene the following day. The vehicle was no longer there. The suspect was arrested at a later date.

Approximately one month later, when the ACTS investigators were serving a protective order (related to this incident) at the residence of the owner of the car, they observed the burned vehicle. They noticed at that time that the spray can was still in the vehicle. They then photographed the spray can.

The ACTS investigator explained to the OIA that the eyewitness had told LAFD first responders on the night of the incident that the suspect had taken the spray can with her when she left the scene. Therefore, LAFD did not search for it at the scene. Further, the Department explained that it would not have been unusual for the spray can to be hidden from sight by the fire debris. Finally, the Department reported that the first ACTS investigators called about the case were expected to attend training later that day and if they had responded to the scene, they may have been late to the training, a scenario they wanted to avoid.

Canvassing for witnesses/Interviewing all witnesses

The OIA found that in some cases the scene was either not canvassed for witnesses or the case file did not include documentation of such canvassing. There was one case in which the scene was canvassed for witnesses more than a day after the incident.

The OIA noted that documentation that the crime scene had been canvassed for witnesses was inconsistent. Although not specifically stated, in some of the investigations it was readily apparent that canvassing had been done, but was not documented as such. In other cases it was not mentioned at all and it appeared some identified witnesses were not interviewed.

APB No.13 requires ACTS investigative reports to be written in a specific, uniform format. To clarify this issue, the OIA recommends that ACTS include in APB No.13 an added required header in all reports entitled “Canvassing for Witnesses.” This would prompt the investigator to include

³¹ The OIA noted that Department policy required that the Incident Commander call ACTS.

³² According to the LAPD Incident Recall, at 03:32A.M., LAPD asked if an ACTS investigator was enroute. When LAPD’s dispatch contacted the LAFD dispatch, LAPD was informed that if the LAFD first responders had thought it necessary, they would have requested an arson unit. LAFD then provided LAPD with the phone number for ACTS.

that information and ensure that canvassing was completed. This is also consistent with LAPD's policy mentioned above. The cases below illustrate the need to ensure that scenes are canvassed for witnesses and that all witnesses are interviewed.

In this case, the suspect pushed the victim down knocking her unconscious. The victim's mother put the victim in bed and then left the house. The suspect set the victim's bed/house on fire causing the victim to sustain serious burns for which she was transported to the hospital.³³ ACTS responded to the scene. When the ACTS investigator interviewed the suspect at the scene of the fire, the suspect claimed he did not know how the fire started and that he had carried the victim from the burning house. The suspect also told ACTS that his brother-in-law, his sister and the victim's mother assisted him in moving the victim. Further, the suspect told investigators that several months earlier the victim had been found by police on a freeway overpass threatening to jump and kill herself, so police placed her on a medical hold in the hospital.³⁴ The suspect was not arrested.

Meanwhile, a second ACTS investigator went to the hospital and attempted to interview the victim. He smelled alcohol on her breath. The investigator was able to get only minimal information. The victim told the ACTS investigator "they did this to me," and, among other things, that her mother may have been present. At one point the victim told the investigator "I set..." but the investigator could not get any further information from the victim about this statement.

Neither the ACTS investigator who responded to the scene nor the investigator who went to the hospital interviewed the victim's mother or the suspect's sister.

The day after the fire, LAPD was dispatched to the hospital³⁵ to complete a domestic violence report.³⁶ At the hospital, the victim's mother told LAPD, among other things, that she had been with the victim when the suspect knocked her down just before the fire started. The victim was knocked unconscious and her mother moved the victim to the bed and left the location. When the victim's mother returned, the house was on fire. The victim's mother also told the LAPD officers that the suspect had said (on the day of the incident) "I took the gas can from the garage and only wanted to burn the bed she was lying on."³⁷

There was no evidence or documentation in the investigation that the scene had been canvassed for additional witnesses.

In response to the issues identified by the OIA in this case, the Department reported the following:

- Neither the victim's mother nor the suspect's sister was at the scene when ACTS investigators arrived.

³³ The 9-1-1 call came to the LAFD dispatch center shortly after 4:00 P.M.

³⁴ The suspect's brother-in-law was interviewed and essentially corroborated the suspect's story, absent the reference to the victim's alleged mental health issues.

³⁵ LAPD was dispatched to the hospital at approximately 1:00 P.M.

³⁶ The victim had a broken leg as the result of a domestic violence incident that had occurred 10 days before the fire, which was treated by medical personnel.

³⁷ LAPD Investigative Report, Page 3 of 5.

- Because the victim told the investigator “I set...” coupled with the report of a previous suicide attempt, the investigators were led to believe that perhaps the victim set the fire.³⁸
- ACTS investigators finished processing the scene at approximately 9:30 P.M. At that time, they discussed the necessary follow-up. They agreed their next step would be to interview the victim (before interviewing any other witnesses). From their past experience with burn victims, they believed the victim would be in the hospital for a while and that it might be several days before she would be able to speak with them. The day of the incident was the responding ACTS unit last day of their “segment” which was then followed by four days off.³⁹ They intended to continue their investigation at the beginning of their next segment. However, it was during their four days off that LAPD responded to the hospital and subsequently arrested the suspect. ACTS indicated that LAPD should have called them to assist with the follow-up investigation and that, if LAPD had called, ACTS would have responded, even though they were off duty.
- The scene was not canvassed for additional witnesses because of officer safety issues. ACTS reported that when they finished processing the scene, gang members were present in the area and it would not have been safe for them to canvass at that time.

In another case, a suspect was observed on video surveillance and by witnesses tampering with a ventilation screen of a restaurant. Five to seven minutes later, fire was observed coming from the ventilation screen. In an interview of a witness, the witness indicated that both he and another person heard an incriminating statement made by the suspect. This person was named by the witness, but there was no indication in the investigation that an attempt was made to locate this person as a potential witness. There was also no mention of canvassing for witnesses.

In this case, as with some others, the OIA recognized that the ACTS investigator did sufficient investigation to convict the defendant. However, according to the D.A.’s representatives, for a number of reasons, investigators should interview all witnesses at the scene and canvass for additional witnesses. For example, by the time of trial some witnesses may be unavailable or may have criminal histories that render them undesirable as trial witnesses. Further, it can be difficult for the prosecution if the defense later finds witnesses that were not initially interviewed by the investigating officer.

In a third case, a suspect, known to the victim, had entered the victim’s apartment without permission and ultimately barricaded himself and the victim inside the residence. LAPD had been called to the residence, but left not being aware that the victim was being held against her will. After the officers left, the suspect started a fire inside the house. LAPD was called back to the scene and subsequently rescued the victim and took the suspect into custody. During their investigation, ACTS investigators interviewed the victim’s son, who stated he had received a call from a neighbor alerting him that something was going on at his mother’s apartment. The son responded to his mother’s residence, and after realizing that his mother was in danger, called 911. The investigation did not document efforts to locate or interview the neighbor who had called the victim’s son. Also, there was no documentation to indicate that the area had been canvassed for additional witnesses.

³⁸ The ACTS investigator who responded to the scene of the fire and completed the investigative report wrote in the conclusion of the report that the cause of the fire and the victim’s injuries were possibly self-inflicted, “however I cannot rule out the intentional act by another person [the suspect] to inflict grave bodily injury or death [...]”

³⁹ ACTS investigative units work platoon duty. Platoon duty consists of working a 24-hour shift every other day for five days, followed by four days off. The five day work schedule is referred to as a “segment.”

In a final example, the investigator specifically mentioned canvassing for witnesses and was successful in locating video evidence. However, in this case, a witness reported driving home with her brother when they observed a suspect running away from a vehicle fire. The witness, who was interviewed, told investigators that her brother made the statement that the suspect had probably just set the car on fire. There was no documentation in the report of an attempt to locate and interview the brother.

General Investigative Practices

The OIA found an inconsistent practice of recording interviews. The Department does not have a policy regarding recording of interviews. The only mention of recording suspect interviews is in APB No. 13, which states, in pertinent part, "Consider utilizing a recorder (digital or cassette). Document the use of the recorder in your report." During the OIA's discussion with the District Attorney's representatives, they indicated a preference for all suspect interviews to be recorded. Additionally, when possible, suspect interviews should be audio and video recorded and when they are, the recordings must be booked as evidence. These are best practices which enhance a prosecutor's ability to obtain a conviction. Furthermore, California's criminal jury instructions state, "[y]ou should view an unrecorded oral statement [made by the suspect] cautiously."⁴⁰

This past July, the United States Department of Justice implemented a policy which creates a presumption that statements made by individuals in federal custody, following arrest but prior to their first appearance in court, will be electronically recorded. According to the policy, prosecutors and agents are directed to use video recording whenever possible and audio when video is not available.⁴¹ Additionally, a 2004 special report presented by the Northwestern University Law School Center on Wrongful Convictions, addressed many of the benefits of recording suspect interviews.⁴²

However, the D.A.'s representatives and the OIA recognize that mandatory recordings are impractical. Sometimes a suspect will not cooperate if the interview is recorded. At other times, the issue may be simply one of malfunctioning equipment. Therefore, the OIA recommends that APB No. 13 be amended to include a provision that suspect interviews should be recorded, preferably video, but if not, then audio. Further the policy should require investigating officers book those recordings into evidence. Finally, if a suspect's interview is not recorded, the reason(s) for this should be documented.

The OIA also noted that witnesses were sometimes interviewed by phone, without an explanation from the investigator as to why a phone interview was conducted, rather than an in-person interview. The D.A.'s representatives recommended that material and percipient witnesses be interviewed in person. Therefore, the OIA recommends that the Department adopt this as policy, including a requirement to document the reason(s) if an interview is not conducted in person.

⁴⁰ Judicial Council of California, Criminal Jury Instructions No. 356, *Miranda-Defective Statements*.

⁴¹ Department of Justice, Office of Public Affairs, Justice News: Attorney General Holder Announces Significant Policy Shift Concerning Electronic Recording of Statements. Thursday, May 22, 2014. <http://www.justice.gov/opa/pr/attorney-general-holder-announces-significant-policy-shift-concerning-electronic-recording>. Accessed November 24, 2014.

⁴² Sullivan, Thomas P. (2004) Police Experiences with Recording Custodial Interrogations. *A Special Report Presented by Northwestern University School of Law, Center on Wrongful Convictions*. Number 1, Summer 2004. http://mcadams.posc.mu.edu/Recording_Interrogations.pdf. Accessed November 24, 2014.

B. ACTS Notification and Response Protocol

While reviewing the 48 investigations, the OIA noted that ACTS did not always respond to the scene of an incident. This appeared to contribute to some of the investigative issues mentioned above. By way of a supplemental matrix, the OIA went back through the 48 cases to assess whether the Department's ACTS response protocol was being followed.

The OIA discovered two separate documents that define the circumstances under which an Incident Commander can or must request an immediate response from ACTS; MOP section 1/2.63 and the Arson Reference Guide (ARG).^{43,44} Although the documents are not necessarily in conflict, they are not identical and could cause confusion regarding an Incident Commander's responsibility for calling ACTS and ACTS' obligation to respond. For instance, the MOP indicates that ACTS should be called when there is a suspect in custody *at the scene*, while the ARG indicates that ACTS should be called when there is a suspect in custody. Also, according to the MOP, ACTS must be called when an eyewitness is on scene, but the ARG says ACTS must be called when a credible witness is on scene, with no mention of eyewitnesses. Other provisions have language that is difficult to understand, such as the provisions in the MOP related to juvenile involvement.

Furthermore, there is uncertainty within the Department about which document controls. Some personnel reported to the OIA that the ARG replaced the MOP while others indicated that the MOP is the current policy. Finally, the OIA questioned whether the title of the policies "Immediate Arson Investigation Unit Response" was sufficient to convey to ACTS personnel the expectation that they are to respond immediately. As noted above, there was at least one case the OIA reviewed in which this appeared to be an issue. The section in the OPM related to responses stated "[a]n immediate (field) response is made for the following incidents [...]"⁴⁵ Although Department management reported that ACTS' duty to respond immediately when called is inherent in the Department's policies, this office recommends this be articulated in the policy.

The OIA found:

- 23 cases in which one of the response policies was followed.
- 7 cases in which neither response policy was followed.
- 3 cases in which the ACTS investigator self-dispatched.
- One case in which LAPD called the dispatch center requesting ACTS response.
- 15 cases in which the OIA was unable to determine if policy was followed.⁴⁶

As an example, LAFD personnel responded to a fire along a railroad track. A suspect was taken into custody. ACTS was not notified at the time of the incident, and only became aware of the incident when ACTS staff later saw the Fire Report⁴⁷ and learned that a suspect had been taken into

⁴³ The Department reported that at times the dispatch center automatically dispatches ACTS.

⁴⁴ The OPM also has a response protocol which is slightly different from the other two; however, as noted above, the ACTS Commanding Officer indicated that the APB supersedes the OPM. OPM Chapter II Section 5(f).

⁴⁵ OPM Chapter II, Section 5(f).

⁴⁶ In most of these cases the ACTS report said that the ACTS investigator was "dispatched" without further information as to whether the Incident Commander requested ACTS, whether ACTS was automatically dispatched, or if ACTS responded for some other reason.

⁴⁷ The Fire Department is responsible for reporting each and every fire to which it responds. Daily, ACTS personnel review the previous day's reports to determine if ACTS should be involved in an investigation about which they had not been notified.

custody. An ACTS Investigator contacted the railroad police the day after the incident to assist in documenting the cause and origin of the fire.

The OIA recommends that a single comprehensive ACTS notification protocol be adopted and should include the requirement that ACTS respond immediately when required. Once the protocol is completed, it should be disseminated to the entire Department and all members should be trained in its use.

C. Joint Task Force or Personnel Loan program

As mentioned above, the LAPD Audit recommended establishing a joint task force program or personnel loan program wherein detectives from experienced law enforcement agencies and/or LAPD would provide hands-on criminal investigation training for ACTS investigators. The LAFD Audit Implementation Plan Goals were to conduct a feasibility study. When concluded the study was to be presented to the Guiding Coalition and management group to prepare an appropriate implementation plan. While it is unclear if a formal feasibility study was conducted, current and former members of ACTS reported that a personnel loan program was discussed with LAPD and, for various reasons, determined to be unworkable. However, ACTS has formed a good working relationship with LAPD and, when staffing allows, takes advantage of training opportunities. Additionally, ACTS management is still exploring avenues for partnering with LAPD in a more formalized manner. ACTS also has a partnership with the Joint Terrorism Task Force (JTTF)⁴⁸ and the Bureau of Alcohol, Tobacco, Firearms and Explosives. The Department is hoping to involve more ACTS personnel in these partnerships to take advantage of the investigative expertise at those entities. The OIA noted that the Long Beach, San Francisco and San Diego Fire Department arson sections all have one or more detectives assigned to their respective units.

Recommendations

1. Consistent with training already provided, the Department should develop policies reflecting the responsibilities of first responders and ACTS investigators for engaging in activities that will lead to more thorough and complete investigations. The prospective policies should reflect best practices for:
 - Crime scene preservation
 - Canvassing for witnesses and surveillance cameras
 - Identifying and obtaining contact information from all witnesses
 - Interviewing all witnesses
2. ACTS should add to its APB No.13 a requirement that investigative reports include a heading entitled "Canvassing for Witnesses."
3. The OIA recommends that a single comprehensive ACTS notification protocol be adopted and should include the requirement that ACTS respond immediately when required. Once the protocol is completed, it should be disseminated to the entire Department and members should be trained in its use.

⁴⁸ According to United States Department of Homeland Security, "JTTFs are multi-jurisdictional task forces established to conduct terrorism-related investigations. JTTFs focus primarily on terrorism-related issues, with specific regard to terrorism investigations with local, regional, national, and international implications [...]" <http://www.dhs.gov/fusion-centers-and-joint-terrorism-task-forces>. Accessed November 24, 2014.

4. Amend APB No. 13 to also include a provision that suspect interviews should be recorded (audio and video), and the recordings booked into evidence. If an interview is not recorded, documentation of the reason(s) should be included in the investigative report.
5. The OIA recommends a policy be created regarding conducting in-person interviews with material and percipient witnesses, including a requirement to document the reason(s) for not conducting an interview in person.
6. ACTS should implement a formal partnership with LAPD and/or other law enforcement agencies to take advantage of their investigative expertise.

Objective No. 3 – Investigative Training

2009 LAPD Audit Findings and Recommendations and LAFD Audit Implementation Plan Goals

In conjunction with its recommendation to update the OPM, LAPD found that the ACTS training requirements were “basic, informal and heavily reliant on on-the-job mentorship and self-training.”⁴⁹ The only formal training mandated by the OPM was Penal Code Section 832 training, an introductory peace officer course on powers of arrest and use of firearms that provides very limited investigative training. LAPD recommended that ACTS adopt formal investigative requirements and standards based on best practices in the fire investigation industry.⁵⁰ The LAFD Audit Implementation Plan Goals were to establish a clear and formalized preparation and promotional path for investigators and supervisors entering ACTS. The Audit Implementation Plan Goals included a proposed training program.

OIA Audit Procedure

The OIA reviewed the qualifications for Arson Investigator Trainees and sought to determine the on-going training plan and certification requirements that exceed minimum training standards for ACTS personnel by reviewing the formal training (on-going/completed) received by individual ACTS members from January 2010 to December 2013. Further, the OIA reviewed a proposed biennial training program submitted by the ACTS Battalion Chief to his chain of command and a 2006 proposal made by the then-Commanding Officer of ACTS. The OIA also reached out to some fire departments in California to survey their training requirements.

OIA Findings

Training Requirements

There are no formal training requirements or standards related to either arson or general criminal investigations for an LAFD member to apply to become an Arson Investigator Trainee. The only qualification necessary for an applicant is four full years experience as a fire suppression certified firefighter at the time the application period closes. Once selected for the position, an Arson Investigator Trainee is required to pass Penal Code Section 832 arrest and control and firearms training.⁵¹ After completing and passing the PC 832 class, the only formal training required is firearms qualifications (see discussion below). There are neither federal nor state training or

⁴⁹ LAPD Audit, Page 3. BFC No. 09-036.

⁵⁰ *Id.*

⁵¹ According to the California Commission on Peace Officer Standards and Training, the PC 832 arrest and firearms course is the minimum training standard for California peace officers. The course consists of two components, which total a minimum of 64 hours. The arrest component has a 40-hour requirement and the firearms component has a 24-hour requirement. <https://www.post.ca.gov/pc-832-arrest-and-firearms-course.aspx>. Accessed October 23, 2014.

certification requirements for arson investigators.⁵² The OIA surveyed some of the other fire departments in the state of California and learned that San Diego, Long Beach and San Francisco fire department arson units do not have a formal training program for arson investigators.

Formal investigative training requirements and standards that were recommended by the LAPD Audit and suggested in the LAFD Audit Implementation Plan have not been adopted. However, in September 2014, the ACTS Battalion Chief submitted a proposed biennial training plan to his chain of command recommending 24 hours of training every two years. Also, in 2006, the then-Commander of ACTS submitted a proposal that was approved by his chain of command to implement a 40-hour annual training requirement and standards for all ACTS investigators. The Department reported that this proposal was never implemented because of objections from the Department's labor organizations.⁵³ The OIA noted that none of the three training proposals included a justification for the type of training proposed, nor did the proposals include the number of hours for each proposed subject (except where the proposal included a discrete course, such as Fire Investigation 1A).

Documented Training

Although formal training requirements are not in place, ACTS investigators voluntarily attend various courses throughout the year. ACTS provided documentation of training that personnel had taken from January 2011 to the present.⁵⁴ The Department reported that the information came from the Network Staffing System (NSS) and that not all completed training courses were entered into the system. Only courses for which a particular code existed were captured. If a code was not available for a particular training, that course was not recorded. This mainly applied to law enforcement related training. According to ACTS management, ACTS members have now been directed that if there is no existing code, to have one generated and enter all training into NSS. As a recent example of this change, ACTS members, twice a year, attend all day range training with LAPD at the Eagle's Nest Range. During this training, the LAPD instructor reviews the use of force policies and discusses tactical issues regarding recent LAPD officer-involved shootings. ACTS management realized that, while the range qualification was documented, the use of force training was not and subsequently began to document the training. In reviewing the training information provided to the OIA, the OIA noted that the last time ACTS members attended the training at Eagle's Nest, the use of force training was documented.

ACTS management also provided the OIA with a break down of Arson members' training by subject matter for calendar years 2013 and 2014. The OIA noted that there was a disparity in training among members. For example, while some members had 20 to 27 hours of "tactical training", others had zero to eight hours of "tactical training". Similarly, while some members had as little as one hour of "policy training," others had as many as 86 hours of training. This problem can be limited by implementing a formal training plan as well as ensuring that all training is documented.

⁵² The ACTS Commanding Officer reported that it was his belief that almost all Arson Investigator Trainees complete State Fire Marshal Arson Investigator certification courses prior to joining ACTS.

⁵³ The Department reported this to the BOFC during open session at their April 22, 2009 meeting.

⁵⁴ The OIA was informed by the Department that the information was available going back only to 2011.

Recommendation

The OIA agrees with the 2009 recommendation made in the LAPD Audit and adopted in the Department's Audit Implementation Plan, for ACTS to adopt formal investigative training requirements and standards based on best practices in the fire investigation industry. The OIA also recommends that the Department consult with the City Attorney's Office on implementing a training program which addresses risk management issues, labor relations and any other relevant topics.

Objective No. 4 – Supervisory Oversight

2009 LAPD Audit Findings and Recommendations and LAFD Audit Implementation Plan Goals

The LAPD Audit found that "Fire Investigation reports did not consistently have documented evidence of supervisory review and approval. Supervisory review is necessary to ensure the quality of investigations, conformance with policies and procedures, and to identify training opportunities. Furthermore, reports were not approved above the Senior Investigator, which is not classified as a supervisory position by civil service rules."⁵⁵ Additionally, LAPD found that booking approvals and arrest reports were also not approved by supervisors. LAPD recommended that the Fire Department establish formal supervisory review requirements for fire investigation reports, booking approvals and arrest reports.

The Fire Department's Audit Implementation Goal was to establish a level of supervisory notification and review that reflects regular communication between investigators and supervisors and a joint commitment to managing risk and liability.

OIA Audit Procedures

The OIA reviewed the cases in the random sample to determine if there was supervisory oversight of arrests, bookings, and fire investigation reports. The OIA also reviewed relevant policies and procedures.

OIA Findings

Arrests, Arrest Reports and Booking Approvals

In 2010 (after the LAPD Audit), the Fire Department implemented APB No. 19; the stated purpose of which is "to ensure that ACTS supervisors are notified and approve all arrests made by LAFD Investigators."

APB No.19 requires:

- Investigators notify the on-call ACTS supervisor of an arrest.
- Approval of the arrest (preferably after the [LAPD] Watch Commander signs the booking approval) by the supervisor.
- A copy of the signed Arson Supervisor Notification/Arrest Approval form be placed in the investigative file.
- The notification information be included in the investigative report under the heading "Supervisor Notification."

⁵⁵ LAPD Audit, Page 9, BFC No. 09-036.

The OIA found:

- In 11 cases (22.9%) notification of an arrest was made to a Captain.⁵⁶
- In 7 cases (14.6%) notification of an arrest was made to the Senior Investigator.
- 21 cases (43.75%) did not have documentation that a supervisor was notified of an arrest.
- Of the remaining 9 cases (18.75%) notification was not applicable.⁵⁷
- One investigation (2.1%) included the Arson Supervisor Notification/Arrest Approval form.
- 47 cases (97.9%) did not include the Arson Supervisor Notification/Arrest Approval form.

The Captain I and Captain II currently assigned to ACTS started in January and June 2014, respectively. They identified the notification issue and recently implemented a new system for ensuring that one of them is notified of each and every arrest. The OIA applauds this initiative and expects it will continue.

It is acceptable for an ACTS investigator to obtain approval of an arrest report and/or booking approval from an LAPD Watch Commander. The LOA states that “[A]ll LAPD forms, including arrest reports, crime reports, property reports, etc., related to an arson investigation or arson-related crime shall be approved by either a LAFD ACTS supervisor or a LAPD supervisor.”

Fire Investigation Reports

Arson Procedure Bulletin No.13, revised 02/10 [February 2010] (after the LAPD Audit was published) provides that all reports shall be forwarded to the Senior Investigator for review, however after that review; the Senior Investigator is required to forward the report to an ACTS supervisor for review and approval. The policy states that when it is impractical to obtain a signature from an ACTS supervisor, a proxy signature may be obtained after the supervisor reviews the report.

The OIA found that 29 fire investigation reports were approved by a captain (60.4%), and 19 (39.6%) were approved by the Senior Investigator.

During 2013 the Section had only one captain therefore, the Department reported, the workload for approving cases was shared with the Senior Investigator. The OIA recommends that when ACTS captains are shorthanded, the Battalion Chief assist with approving reports.

Incomplete Investigative Files

The OIA identified some cases in which documents were not included in the investigative files. In Objective No. 2, the OIA discussed a case in which consent to search a residence was given but not reflected in the file and a case wherein the Incident Commander called ACTS, but this was not documented in the file. Furthermore, the OIA noted that some files lacked documents such as results of evidence analysis, and documents requested by the DA’s Office. Another example is presented below.

In this case, the suspect kicked in the door of the victim’s duplex. Although the victim was not home, members of her family were there. The suspect said he was going to come back and hurt the victim. The suspect harassed and threatened the victim, including threatening to shoot her in the

⁵⁶ Of the 18 cases where notification was made, not all contained the required heading in the report.

⁵⁷ Notification was not relevant for reasons such as the suspect was arrested by another agency.

head, and sending her a text message saying “it’s your car, then you bitch.”⁵⁸ Approximately one month after kicking in the victim’s door, the victim’s car was burned. As part of its investigation, ACTS obtained a search warrant for the suspect’s phone records on February 6, 2014. There was no search warrant return in the investigative file. According to California law, a search warrant must be executed and returned to a magistrate with an inventory of the property taken, within 10 days after the date the warrant was issued.⁵⁹

On November 21, 2014, ACTS had a “Return to Search Warrant” executed in the Los Angeles Superior Court and provided a copy to the OIA.

Recommendations

The OIA recommends that the Department enhance APB No.13 and No.19 with the following provisions:

APB No.13

- 1) In light of the investigative issues identified in Objectives No. 2 and 4 above, the OIA recommends that before approving an investigative report, a supervisor (or the person approving the report in lieu of the supervisor) must ensure that investigations and reports are thorough, complete and accurate, including but not limited to verifying that:
 - a. all policies and procedures were followed,
 - b. the scene and evidence were preserved,
 - c. the scene was canvassed for witnesses,
 - d. all witnesses were interviewed,
 - e. all evidence was collected and properly booked,
 - f. all related documents and materials were included in the case file,
 - g. adequate articulation for legal actions, such as searches and seizures, was in the report.
- 2) If it is impractical to obtain a signature from a supervisor, the report must reflect verification that the supervisor reviewed the report and include the reason it was impractical for the supervisor to sign the report.
- 3) If ACTS is not fully staffed with captains, then the OIA recommends that the Battalion Chief should assist with approving investigative reports.

APB No.19

- 4) If ACTS is not fully staffed with Captains, then the Battalion Chief should be one of those supervisors to whom notification of an arrest can be made.

⁵⁸ Fire Investigation Report, Page 5 of 8.

⁵⁹ California Penal Code Sections 1524 and 1537.

Objective No. 5 – Background Investigations and Firearms Qualifications for Peace Officers

A. Background Investigations

Audit Procedure

To determine if ACTS personnel have completed the requisite background requirements and on-going firearms training, the OIA reviewed Letters of Agreement between LAFD management and United Firefighters Los Angeles City (UFLAC), state laws, an internal Department memo, and a letter recently sent to some ACTS members. Also, the OIA supplied a list of current ACTS personnel to the City Personnel Department and met with representatives from the Personnel Department to discuss compliance.

OIA Findings

State Law

LAFD arson investigators are peace officers pursuant to PC§ 830.37. They have police powers and are authorized to carry firearms. Government Code Section (GC§) 1031 articulates minimum qualifications for peace officers in California. Among those requirements is that peace officers be of good moral character, as determined by a thorough background investigation, and that peace officers be found to be “free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.”⁶⁰ On January 1, 2005, an amended version of GC§1031 took effect which further defined the qualifications of physicians, surgeons and psychologists who can perform those evaluations.

Additionally, in conjunction with GC§1031, in 2005, the California State Legislature enacted PC§ 832.05, which provides that agencies employing peace officers must utilize people who meet the requirements of GC§1031 for emotional and mental evaluations of peace officer recruits or evaluations of peace officer fitness for duty.

Requirements for LAFD Arson Investigators

1. July 2010 Memo

In a memo dated July 20, 2010, the then-Commanding Officer of ACTS wrote to the Fire Chief, “Penal Code 832.05, which took effect on January 1, 2005, requires agencies that employ peace officers utilize persons meeting the standards set in Government Code 1031(f) to conduct any necessary psychological evaluation with respect to candidate’s *[sic]* emotional or mental fitness to perform peace officer duties, also be of good moral character, as determined by a thorough background investigation.”

⁶⁰ GC§1031(f).

The Commander's findings included the following:

- "Although Arson Investigator Trainees provide fingerprints in compliance with Government Code 1030 and 1031(c) to determine the presence of disqualifying convictions under the Government Code, no further check of the candidate's suitability for peace officer duties have [*sic*] been conducted prior to their assignment to ACTS."⁶¹
- "Firefighter candidates receive background and psychological screening prior to appointment by the Fire Department. The Personnel Department employs more rigorous background checks and psychological evaluations for Peace Officers than Firefighters, to meet Peace Officer Standards and Training (POST). The average Arson Investigator Trainee comes into the section with 10 to 15 years of LAFD seniority, so both of these evaluations are dated since employment and do not meet POST standards."
- "Medical Screening under 830.05 is not necessary since Arson Investigator candidates are full duty Firefighters and [...] [t]he medical requirements for Firefighter are more stringent than that of Peace Officer and are of a higher standard than POST requirement [*sic*]."

The Commander recommended that:

- "The Personnel Department gives [*sic*] psychological evaluations and a thorough background investigation to Arson Investigator Trainees prior to appointment to the Arson/Counter Terrorism Section to meet PC 832.05."
- "Both the psychological evaluation and the background investigation are to Peace Officer Standards of Training (POST) criteria, the same criteria used for LAPD lateral transfers."

2. October 2011 Letter of Agreement

A Letter of Agreement was signed on October 6, 2011 by LAFD Management and UFLAC, which states, "[m]embers, prior to assignment to the ACTS, shall be subject to and complete:

- A background examination that includes the completion of a Personal History Form, which requires compilation of extensive biographical information, completion of additional questionnaires, fingerprinting, and a background interview. The investigation includes checks of employment, police, financial, education, and military records. The interview also includes interviews with family members, neighbors, supervisors, co-workers, and friends.
- A psychological evaluation by a City Medical Services Division Psychologist.
- A polygraph examination to confirm information obtained during the background investigation."

⁶¹ A Letter of Agreement dated March 24, 1997 between LAFD management and UFLAC detailed the way criminal record reviews of personnel assigned to arson would be conducted. A criminal history report was obtained by LAPD's Records and Identification Division. That report was submitted to the Operations Executive Officer for review with the assistance of the City Attorney's Office. According to the LOA, a member with disqualifying entries on their criminal history record would be given a review period and then if unresolved, administratively transferred from the arson section.

The LOA further states, “[m]embers currently assigned to the ACTS and appointed after January 1, 2005 shall be subject to and complete a psychological evaluation by a City Medical Services Division Psychologist to meet the requirements of Section 1031 of the California Government Code and Section 832.05 of the California Penal Code.”

This LOA created three categories of people in ACTS:

- Those who were assigned to the unit before January 2005 for whom the requirements of the 2011 LOA do not apply.
- Those who were assigned to the unit after January 2005 but before October of 2011 and were required to undergo a psychological evaluation by a City Medical Services Division Psychologist to meet the requirements of GC§ 1031 and PC§ 832.05.
- Those assigned to the unit after October of 2011 who were required to undergo a background examination, psychological evaluation and polygraph examination as defined by the 2011 LOA.

Currently 20 sworn members are assigned to ACTS. Their status relative to the 2011 LOA is as follows:

- Five members were assigned prior to January 2005 and are not subject to the requirements of the 2011 LOA.
- Two investigators were assigned prior to January 2005, but left ACTS and then were reassigned back to ACTS after January 2005. The OIA consulted with the City Attorney’s office, which opined that these two investigators were to be treated the same as those who had been assigned to the unit before January of 2005 and therefore, are not subject to the requirements of the 2011 LOA.
- One member who was assigned after January 2005 and before October 2011 completed a full police background as a reserve police officer which satisfied the requirements of the LOA.
- Four investigators were assigned to ACTS after January 1, 2005 and before October 6, 2011 who have not completed a psychological evaluation as articulated in the LOA.
- Eight members have been assigned since the 2011 LOA was executed and successfully completed a background examination, psychological evaluation and polygraph examination.

On October 20, 2014, the Chief Deputy of Emergency Operations sent a memo entitled “MANDATORY PSYCHOLOGICAL EVALUATION” to the four ACTS investigators who have not completed a psychological examination. The memo cites the post-2005 requirements of PC§832.05 and GC§1031, and the 2011 MOA with UFLAC. Further, the memo states that the psychological evaluation process must be completed by January 6, 2015. The Department recently reported that three members were given an extension until April 2015.

Recommendation

The OIA recommends that the Department ensure that members comply with the 2011 LOA by completing psychological evaluations as soon as possible.

B. Firearms Qualification⁶²

Audit Procedure

The OIA reviewed the following documents:

- October 2010 LOA between LAPD and LAFD
- January 2013 LOA between LAPD and LAFD
- APB No. 5, Arson Investigation Section Firearm Qualification Policy (Revised 09/2001)
- 2006 memo entitled Firearm Qualification Policy, written by the then-Commanding Officer of ACTS
- LAPD Special Order 24 – DEPARTMENT [LAPD] QUALIFICATION SCHEDULE – REVISED – Effective August 1, 2010
- LAPD Special Order No. 36, dated November 30, 2007, which deals with medical exemptions to the requirement to qualify
- October 30, 2014 memo from the Commanding Officer of LAPD's Training Division entitled FIREARMS QUALIFICATION FOR THE MONTHS OF NOVEMBER AND DECEMBER 2014
- Other related LAPD policies.

The OIA also reviewed firearms qualification records maintained by LAPD for the 20 current ACTS personnel for calendar years 2009 to 2013 (the past five full years) to determine if ACTS personnel complied with firearms training policies.

OIA Findings

The LOA with LAPD states that “[t]he LAFD Arson investigators shall adhere to LAPD’s policies on the use of firearms [...]” APB No. 5, Weapon Qualification (Revised 09/2001) was the policy presented as the standard against which ACTS firearms qualifications were to be measured. Among the issues addressed in the policy are cycle of qualification, ramifications for failing to qualify, and exemptions.⁶³ Later, the OIA discovered a 2006 memo, written by the then-Commanding Officer of ACTS which included a different cycle for qualifications. When this inconsistency was brought to the attention of ACTS, the OIA was presented with a third policy, LAPD’s Special Order 24 - LAPD Special Order 24 – DEPARTMENT [LAPD] QUALIFICATION SCHEDULE – REVISED – Effective August 1, 2010, which was represented as the most current policy for ACTS firearms qualifications cycles.

While this report was being drafted, ACTS personnel rewrote APB No. 5 so that it now conforms to LAPD’s current policies.

ACTS members are required to qualify with their firearms at a range and under LAPD supervision. Members are required to shoot during qualification cycles, which are determined by the number of years of service a member has in ACTS. Members who have completed the LAPD shotgun course of instruction are required to qualify with a shotgun every year in January. Additionally, the Force

⁶² This is the minimum firearms testing standard that each ACTS investigator has to achieve. In order to qualify, members must achieve a minimum established score. Investigators failing to attain the minimum score shall repeat the course of fire until the minimum score for each target is attained during one relay.

⁶³ As discussed above in Objective No. 1, the OIA determined that there was more than one version of APB No. 5. This created confusion as the OIA attempted to determine which standard applied and by which standard ACTS should be measured.

Option Simulator (FOS)⁶⁴ training is scheduled in lieu of the handgun qualification once per year for some members.

According to APB No. 5 (current and past versions) when the ACTS Commander is notified that an investigator failed to meet the qualification requirement and the investigator does not have a valid exemption, the ACTS Commander is responsible for “administering corrective action in a progressive manner, commensurate with Department policy.”

The OIA received data from LAPD containing qualification records from 1999 to the run date of October 1, 2014. For the purposes of this report, the OIA reviewed the records of the 20 current ACTS personnel for calendar years 2009 to 2013. Each person who qualifies with LAPD receives a “Z number” and qualification results are recorded electronically pursuant to an individual’s Z number. Regardless of an individual’s assignment, the Z number follows the person.

The data revealed the following totals for 2009 through 2013:

TABLE 2: 2009 – 2013 HANDGUN QUALIFICATION RAW DATA

Number of Members	Number of Missed Handgun Qualifications
13	0
3	1
2	2
1	3
1	4

TABLE 3: 2009 – 2013 SHOTGUN QUALIFICATION RAW DATA

Number of Members	Number of Missed Shotgun Qualifications
17	0
3	1

The OIA’s initial review was of the raw data only. Subsequently, the OIA received an explanation from ACTS personnel regarding the missed qualification cycles. In one particular year, the LAPD data showed four ACTS members missed a qualification cycle. Although not recorded in the LAPD database, ACTS records contained a receipt from the range showing that they had, in fact, qualified.

ACTS personnel gave the following reasons for the missed qualification cycles reflected in LAPD’s records:

- Four ACTS members claimed a medical exemption at one time or another. According to the Department’s Medical Liaison Unit, there was no record of a worker’s compensation claim or

⁶⁴ A Force Option Simulator presents life-like “shoot/don’t shoot” scenarios using video and simulated firearms. An officer’s performance is captured by computer.

duty restrictions for three of those members. Department records showed the fourth member on modified duty for all but one of the qualification cycles.

- One member was detailed to an outside agency and recalls participating in FOS training, but reported that FOS was a new concept and there was confusion about where to enter his proof of attendance. This same member missed another qualification cycle and ACTS explained that their internal records showed that the member qualified, however the member did not have a receipt from LAPD.
- ACTS did not have a record of a member's qualification for a particular cycle because ACTS keeps their records for only five years. Further, ACTS reported that the member had no recollection of missing a qualification cycle.⁶⁵
- There were two instances where members missed one shotgun qualification period, which to date, have not been explained.
- An ACTS member was in a non-ACTS assignment for approximately a year and a half. He missed one qualification cycle during that time. The Department reported that he was not a peace officer while in the non-ACTS assignment and therefore was not obligated to qualify.
- On one occasion when a member did not qualify, ACTS reported a belief that the member received a notice to improve from his captain.

A noteworthy issue identified by the OIA, was that one member, due to a medical exemption had not qualified for one year. LAPD Special Order No. 36 states, in pertinent part,

“Sworn personnel who are unable to qualify due to an injury shall be examined by a physician. Sworn personnel shall obtain a statement from the physician imposing the medical restriction and an estimate of the length of time for which the officer should be exempted from qualification requirements [...] *If an officer who has a medical exemption has not qualified with his or her duty firearm within one calendar year, whether the reason is based on a temporary or permanent medical restriction, the officer's authority to carry a firearm, on or off duty, shall be rescinded, and the officer's powers of arrest shall be restricted to on-duty only* [emphasis added]. Furthermore, the officer shall relinquish his or her City-issued firearm and police identification (ID) card to the Department and receive a restricted police ID card. The officer shall retain the restricted peace officer status until the medical restriction has been rescinded and the officer meets the shooting qualification standards. The officer may then have the right to carry a firearm and full powers of arrest reinstated [...]”

Special Order 36 also explains the process due to an officer in this situation. It appears that according to the data and the policy, the Department should have initiated the process for rescinding the officer's authority to carry a firearm and restrict his powers of arrest. In response to the OIA, ACTS personnel explained that they were unaware of the requirements of LAPD Special Order No. 36. ACTS also noted that once the member in question had his medical exemption removed, he qualified at the beginning of the following year thereby eliminating the need to place him on restricted status. As Special Order No. 36 requires that police personnel, unable to qualify, be examined by a physician in the Police Department's Medical Liaison Section, ACTS should develop their own protocol to adhere to this requirement.

⁶⁵ The OIA noted that the five year records retention period for that cycle would have expired last month at the earliest.

Recommendations

1. Develop a procedure to ensure ACTS is apprised of and in compliance with all LAPD policies related to firearms qualifications.
2. Develop a clear expectation that members are required to shoot each cycle and, that as indicated in APB No. 5, when members fail to meet the qualification requirement that “there will be corrective action in a progressive manner, commensurate with Department policy.”

VII. SUMMARY OF RECOMMENDATIONS

1. The OIA agrees with the LAPD Audit recommendation and the Department’s Audit Implementation Plan to create an Arson Procedures Manual, and, upon completion, seek formal approval and distribute to all ACTS personnel. The OIA recognizes that this may be a daunting task for ACTS not only in light of the volume of the work, but also because there are a number of areas which require updated legal procedures and citations. The OIA encourages the Department to examine the feasibility of bringing in additional Department, City or outside resources to work in conjunction with ACTS to rewrite the manual. Furthermore, the Department should consult with the City Attorney’s office before a new manual is finalized.
2. Consistent with training already provided, the Department should develop policies reflecting the responsibilities of first responders and ACTS investigators for engaging in activities that will lead to more thorough and complete investigations. The prospective policies should reflect best practices for:
 - Crime scene preservation
 - Canvassing for witnesses and surveillance cameras
 - Identifying and obtaining contact information from all witnesses
 - Interviewing all witnesses
3. ACTS should add to its APB No.13 a requirement that investigative reports include a heading entitled “Canvassing for Witnesses.”
4. The OIA recommends that a single comprehensive ACTS notification protocol be adopted and should include the requirement that ACTS respond immediately when called. Once the protocol is completed, it should be disseminated to the entire Department and members should be trained in its use.
5. Amend APB No. 13 to also include a provision that suspect interviews should be recorded (audio and video), and the recordings booked into evidence. If an interview is not recorded, documentation of the reason(s) should be included in the investigative report.
6. The OIA recommends a policy be created regarding conducting in-person interviews with material and percipient witnesses, including a requirement to document the reason(s) for not conducting an interview in person.
7. ACTS should implement a formal partnership with LAPD and/or other law enforcement agencies to take advantage of their investigative expertise.

8. The OIA agrees with the 2009 recommendation made in the LAPD Audit and adopted in the Department's Audit Implementation Plan, for ACTS to adopt formal investigative training requirements and standards based on best practices in the fire investigation industry. The OIA also recommends that the Department consult with the City Attorney's Office on implementing a training program which addresses risk management issues, labor relations and any other relevant topics.
9. The OIA recommends that before approving an investigative report, a supervisor (or the person approving the report in lieu of the supervisor) must ensure that investigations and reports are thorough, complete and accurate, including but not limited to verifying that:
 - a. all policies and procedures were followed,
 - b. the scene and evidence were preserved,
 - c. the scene was canvassed for witnesses,
 - d. all witnesses were interviewed,
 - e. all evidence was collected and properly booked,
 - f. all related documents and materials were included in the case file,
 - g. adequate articulation for legal actions, such as searches and seizures, was in the report.
 - If it is impractical to obtain a signature from a supervisor, the report must reflect verification that the supervisor reviewed the report and include the reason(s) it was impractical for the supervisor to sign the report.
 - If ACTS is not fully staffed with captains, then the OIA recommends the Battalion Chief should assist with approving investigative reports.
 - If ACTS is not fully staffed with Captains, then the Battalion Chief should be one of those supervisors to whom notification of an arrest can be made.
10. The OIA recommends that the Department ensure that members comply with the 2011 LOA by completing psychological evaluations as soon as possible.
11. The OIA recommends that the Department develop a procedure to ensure ACTS is apprised of and in compliance with all LAPD policies related to firearms qualifications.
12. Develop a clear expectation that members are required to shoot each cycle and, that as indicated in APB No. 5, when members fail to meet the qualification requirement that "there will be corrective action in a progressive manner, commensurate with Department policy."

VIII. CONCLUSION

The Arson/CounterTerrorism Section is a law enforcement agency within the LAFD with responsibilities, potential risks and liabilities, and implications for public safety not normally associated with fire prevention and suppression. Accordingly, it is prudent for the Department to be in compliance with agreements and policies requiring peace officers to be vetted through proper background investigations and psychological evaluations, and to pass the firearms testing requirements.

Furthermore, while the District Attorney's office representatives praised the work of ACTS investigators and the OIA found that investigations were generally good, the LAPD Audit and this audit identified fundamental investigative practices which, if written into policy, will enhance ACTS investigations. Additionally, clear ACTS response protocols will improve the overall quality of the work of ACTS. Finally, although the current and previous Section Commanding Officers attempted to implement a standardized training program, to date none has been adopted. The important and unique role this Section plays necessitates comprehensive policies and verifiable on-going training.

The OIA applauds the advances made by the current ACTS management. Translating their work into policies is important for ensuring a lasting impact.

ATTACHMENT A
ARSON/COUNTERTERRORISM SECTION
MANUAL OF OPERATIONS VOLUME ONE, SECTION 38

.01 GENERAL

The Arson/Counter-Terrorism Section (ACTS) is assigned to the Special Operations Section. The Battalion Chief assigned as the ACTS commander maintains regular business hours. Primary duties of this assignment include:

1. Responsible for the overall supervision and command of ACTS.
2. Evaluates data on the number of investigative cases assigned: arrests made, and convictions to determine the successes and effectiveness on the investigatory process.
3. Monitors investigator case load and, when necessary, assigns cases and reviews case reports for accuracy or additional avenues of investigation.
4. Identifies and coordinates training programs for Section personnel.
5. Develops, coordinates, and manages special programs and task forces.
6. Represents the Department at meetings with outside agencies, other governmental offices, as well as the public on arson-related issues.

.10 ACTS CAPTAINS

Two Captains serve as administrative assistants to the Section Commander. It is their primary duty to:

1. Aid in planning, directing, and coordinating training programs for the Section.
2. Assume duties relative to subpoena research, time keeping, complaints, and public inquiries.
3. Coordinate Section and Department activities with related agencies.
4. Review incoming information and investigators' reports for further action and establish priorities.
5. Investigate fires and testify in court.

.20 SENIOR INVESTIGATOR / CASE MANAGEMENT COORDINATOR

The primary duties of the Senior Investigator/Case Management Coordinator are the same as the investigators, including the following:

1. Assignment of investigations.
2. Evaluation of the progress and direction, and if necessary, guidance to the Investigator on all aspects of the case.
3. Review of investigations, to include recommending conclusion or additional work on the case.

.30 INVESTIGATORS

The primary duties of the personnel assigned as investigators are defined as follows:

1. Investigate fire scenes to determine origin and cause. Includes the documentation of the scene through photographs, diagrams, evidence collection, and other investigative techniques.
2. Interrogate and/or interview suspects and witnesses in relation to fire incidents, apprehend persons responsible for criminal fires, prepare investigation reports and search warrants, and file criminal complaints with District Attorney's Office or the City Attorney's Office.
3. Assist prosecutors in preparing court cases, testify as an expert witness pertaining to fire origin and cause, and provide liaison with other departments, agencies and organizations.
4. Counsel and advise juveniles and parents in relation to youth fire setting,
5. Assist Incident Commanders with fire origin and cause determination at fire scenes or through training.

ATTACHMENT B
TABLE 1 – LAPD AUDIT FINDINGS AND RECOMMENDATIONS
LAFD AUDIT IMPLEMENTATION PLAN GOALS

<p>LAPD Findings - Objective No. 1 – Policies and Procedures</p> <ol style="list-style-type: none"> 1. The Operations Procedures Manual (OPM) currently provides an adequate framework for the management and operations of ACTS. The OPM however should be reviewed, updated and formally approved by the LAFD management. 2. The OPM lacks formal investigative training and certification requirements for ACTS investigators.
<p>LAPD Recommendations:</p> <ol style="list-style-type: none"> 1. Review and update the OPM. 2. Establish formal investigative training requirements and standards. 3. Formally approve the OPM. 4. Formally distribute and evidence receipt of the OPM to ACTS personnel.
<p>LAFD Implementation Plan Goals:</p> <ol style="list-style-type: none"> 1. Create, approve and distribute the ACTS Procedural Manual (APM), a new multi-sectional publication that merges the Office Procedures Manual (OPM), Arson Procedural Bulletins (APBs), Clerical Procedures, and other related documents. 2. Establish on-going training and certification requirements that exceed minimum training standards for members assigned to ACTS. 3. Establish a clear and formalized preparation and promotional path for investigators and supervisors entering ACTS.
<p>LAPD Findings - Objective No. 2 – ACTS Investigated all Assigned Arson Incidents</p> <ol style="list-style-type: none"> 1. Seventy-eight percent (78%) of fire incidents forwarded to ACTS were not assigned for investigation, of which 65% were incendiary vehicle or dumpster/trash fires.
<p>LAPD Recommendations:</p> <ol style="list-style-type: none"> 1. Determine whether the NFIRS criteria for incidents forwarded to ACTS for response and investigation are consistent with LAFD's departmental goals and objectives. 2. Develop and implement an arson case categorization system to prioritize cases based on established criteria, including existence of witnesses and suspects, number of fatalities/injuries, amount of property damage, (possible) hate crime, legal risks, etc. 3. Expand the role of first responders to conduct more in-depth preliminary investigations to "filter" and categorize incidents assigned to ACTS. 4. Develop an arson incident tracking system to analyze criminal fire trends and patterns.
<p>LAFD Audit Implementation Plan Goals:</p> <ol style="list-style-type: none"> 1. Review NFIRS criteria for forwarding case files to ACTS to determine if those criteria meet current Department goals. Decide which, if any supplemental criteria are needed to further comply with departmental goals and objectives. 2. Set up a system to categorize, prioritize, assign and manage incoming cases. 3. Establish data infrastructure capabilities to permit timely analysis of criminal fire incidents, with special emphasis on intentional fire incidents. 4. Assist field personnel in understanding the vital role they play in the identification and expedient data entry of potential arson incidents as well as identification of evidence and witnesses on-scene.

LAPD Findings - Objective No. 3 – Quality of Investigations

1. Evidence was not collected and preserved for several investigations.
2. Fire scenes were not canvassed for witnesses.
3. Some witnesses to incidents were not interviewed.
4. Investigation efforts were not exhaustive.

LAPD Recommendations:

1. LAPD reiterated recommendation #2 for Objective No.1.
2. Establish a joint task force program to assign experienced detectives from law enforcement agencies to provide management and operational expertise in criminal investigations. Alternatively, establish a personnel loan program for temporary assignment of ACTS investigations to LAPD detective units to obtain hands-on criminal investigation training.
3. Establish formal LAFD procedures for first responders to identify witnesses and collect their contact information for follow-up by ACTS investigators.

LAFD Audit Implementation Goals:

1. Establish an internal culture and external support and linkage systems that reinforce the primary law enforcement duties of ACTS; criminal investigation and apprehension, felony case preparation, custodian of records, subpoena control, and crime analysis and reporting. Conduct a feasibility study regarding a personnel loan program with LAPD.
2. Assist field personnel in understanding the vital role they play in the identification and expedient data entry of potential arson incidents as well as identification of evidence and witnesses on-scene (also see Audit Implementation Goals for LAPD objective No. 2).

LAPD Findings - Objective No. 4 – Supervisory Oversight

1. The fire investigation reports lack evidence of supervisory approval.
2. There is no evidence of supervisory approval above the Senior Investigator.
3. Booking approvals were not obtained from LAFD supervisors.
4. Arrest reports were not approved by LAFD supervisors.

LAPD Recommendations:

Establish formal supervisory review requirements for:

1. Fire Investigation Reports
2. Booking Approvals
3. Arrest Reports

LAFD Audit Implementation Goals:

1. Establish a level of supervisory notification and review that reflects regular communication between investigators and supervisors and confirms a joint commitment to managing risk and liability to the Department.

LAPD Findings – Other Related Matters

1. There is no formal mechanism to collect and track arson fire data for analysis of crime trends and patterns.
2. There is no formal case management process for supervisors to monitor case status, follow-up, and dispositions. Additionally, supervisors should measure individual and section performance such as investigator case loads, case clearance, arrests and convictions.

LAPD Recommendations:

1. Establish a database to collect and track incident data.
2. Establish a formal case management process.

LAFD Audit Implementation Plan Goals:

1. Set up a system to categorize, prioritize, assign and manage incoming cases (see above, Objective No. 2 Audit Implementation Goals)
2. Establish data infrastructure capabilities to permit timely analysis of criminal fire incidents, with special emphasis on intentional fire incidents (see above, Objective No. 2 Audit Implementation Goals).