



DATE: December 4, 2008

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THROUGH: RENENA SMITH, Budget Director  
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SUBJECT: FOLLOW-UP AUDIT - INTERNAL AFFAIRS PUBLIC SAFETY OFFICERS  
PROCEDURAL BILL OF RIGHTS (POBOR) MANDATE PROCESS AUDIT

Attached is the Final Follow-Up Audit Report with the current implementation status of the 12 recommendations made in the Police Department Internal Affairs Public Safety Officers Procedural Bill of Rights (POBOR) Mandate Process Audit Report issued February 25, 2008. The follow-up audit was performed in accordance with AO 1-12 and Government Auditing Standards.

Internal Audit has concluded the Implementation Status for the 12 Audit Recommendations to be as follows:

- 10 – Audit Recommendations Implemented
- 2 – Audit Recommendations In Progress

Thank you for your assistance during the course of this follow-up audit. If you have any questions, please to contact Bob Koury, Principal Internal Auditor, at 621-7072.

Attachment

cc: Alan Autry, Mayor  
Council Members  
Andrew T. Souza, City Manager  
Bruce Rudd, Assistant City Manager  
Sharon J. Shaffer, Commander, Investigative Services Division  
Anthony Martinez, Lieutenant, Internal Affairs Division, Police Department  
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# **INTERNAL AUDIT**



## **FOLLOW-UP AUDIT REPORT**

### **Police Department Internal Affairs Peace Officers Procedural Bill of Rights (POBOR) Mandate Process Audit**

**Audit Number 09-0004**

**Performed by:  
Mary Viancourt, Internal Auditor  
Bill Richards, Internal Auditor**

**Issued on December 4, 2008**

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## **AUDIT FINDINGS AND RECOMMENDATIONS**

### **Finding 1 – Non-Compliance with the Internal Affairs Manual**

The Internal Affairs Manual, Section 02.00 Authority For Conducting Internal Investigations states: “...**The provisions of this manual are intended to carry the same authority as Standing Orders.**”

The Manual Section 05.02 Completion & Review states: “... An Administrative Activity and Tracking Log... shall be attached to the IA Investigation. The log should list the activity performed and the amount of time of all members who participated in the investigation.”

Internal Audit reviewed every 2004 through 2007 Internal Affairs closed file for an Administrative Activity and Tracking Log (Time Log). Internal Audit’s review showed 41 out of 811 (5%) of the closed case files did not contain a Time Log. The breakdown of the 41 missing Time Logs is as follows:

- 32 out of the 256 cases in 2004
- 6 out of the 205 cases in 2005
- 3 out of the 204 cases in 2006
- Zero out of the 146 cases as of 11/30/07 for 2007.

As noted, improvement occurred in this area with each fiscal year; however, Internal Audit concluded any inconsistent compliance with the Internal Affairs Manual may affect the State Mandated POBOR Program.

#### **Audit Recommendation:**

1. Even though the number of missing Time Logs has decreased over the years, the Chief of Police or his designee should remind all Officers to comply with all sections of the Internal Affairs Manual for consistent and proper compliance, and positive impacts to the POBOR Program.

#### **MANAGEMENT RESPONSE TO RECOMMENDATION 1**

IA intends on completing a Training Bulletin with proper Time Log completion instructions. At that time, IA will also standardize the actual Time Log Sheet. This Training Bulletin is pending the results of the State’s POBRA reimbursement audit. It does not seem beneficial to update the Log at this time, if the State may soon require new criteria on the Time Logs.

#### **CURRENT STATUS OF RECOMMENDATION 1 - IMPLEMENTED**

On October 14, 2008, a memorandum was distributed from Chief Dyer to all staff, advising of the revised IA Time Log and the required completion of time entries by all personnel involved in the IA process.

## **Finding 2 – Inconsistent Filing of Internal Affairs Case Documentation**

During Internal Audit's review of the Internal Affairs Case Files for Time Logs, the following was observed:

- There did not appear to be any systematic filing process for documents in the Internal Affairs Case Files. Most Case File documents are secured on the right side of the Case File by a two-hole punch clasp at the top of the page.
- A few Internal Affairs Case Files have dividers stating Exhibit 1, Exhibit 2, etc.
- There was no Table of Contents or listing of documents and location within the individual Case Files for ease of review and/or quick reference purposes.
- Internal Affairs staff and/or other reviewers must peruse all the documents in the Case File until they locate or do not locate the document(s) they need to retrieve/review.
- Other case evidence might or might not be attached to the Case File (for instance envelopes with photos).

Internal Audit concluded the current filing system of Internal Affairs' cases/documentation is inefficient and should be improved.

### **Audit Recommendations:**

2. The Chief of Police or his designee should consider drafting and implementing a policy that all Internal Affairs Time Logs will be the first page in the Case File on either the left or right side to promote greater efficiency and completion by the staff required to complete the Time Log.
3. The Chief of Police or his designee, in conjunction with the Internal Affairs Lieutenant, should consider whether Internal Affairs' supporting documents should be located consistently throughout all Case Files with the aid of a Table of Contents, Dividers or both, for improved efficiency.

### **MANAGEMENT RESPONSE TO RECOMMENDATIONS 2 & 3**

Placement issue will be addressed with the new Training Bulletin, see Finding 1 for specifics/timeline. A Table of Contents in each IA would not be practical. There is a Supporting Documents list incorporated in each IA report for any attachments in the IA report itself. An overall Table of Contents would remain a work-in-progress and require constant updates as the matter is reviewed or administrative documents are attached to the file. The auditors did not realize that when an IA investigation is 'closed', many requests from that investigation may continue due to pending disciplinary hearings/litigation. A Table of Contents would require multiple updates.

## **CURRENT STATUS OF RECOMMENDATIONS 2 & 3 - IMPLEMENTED**

Effective February 2008, the time logs were standardized in their placement within each IA file. This was further facilitated when the time log was revised and distributed to all supervisors in October, 2008 (see Finding 1).

### **Finding 3 - Audit Sample of Internal Affairs Cases for Review of Time Logs**

Internal Audit initially attempted to use the FYs 2004 - 2007 Case Labor Reports (from the Internal Affairs database to track POBOR time) to select a sample to determine if a Time Log was completed for each case. Due to the informational format of the Case Labor Report, Internal Audit used the Cost Recovery Excel Spreadsheets for FYs 2004 - 2007 (although Internal Audit was made aware the total expense amounts between the Case Labor Reports and the Cost Recovery Excel Spreadsheets did not exactly match by an immaterial amount).

A sample of 60 cases was selected for review. Internal Audit noted:

- Four out of the 60 (7%) cases were signed out to the City Attorney's Office. Therefore, Internal Audit was not able to review the case file for a Time Log.
- The remaining 56 out of the 60 (93%) cases did have a Time Log.

#### **Audit Recommendation:**

4. The Chief of Police or his designee should direct the Internal Affairs Lieutenant to randomly review the closed case files (especially upon return of the files sent to the City Attorney) to ensure a Time Log is in each file. The lack of a Time Log in each file should be reported to the appropriate Division/Officer for completion and improved supporting documentation.

## **MANAGEMENT RESPONSE TO RECOMMENDATION 4**

Currently, the IA Commander reviews every IA before it is closed, whether it is completed at or outside of IA. The Time Log completion has not historically been a matter that, if found incomplete, caused the IA to be returned to the originator. IA can begin returning IAs as incomplete, if there is no or an improper Time Log attached. The return may cause a separate concern though. If the originator does not have a list some place, with specific time activity information (as well as any subsequent person who reviews/works on the file), all times added after-the-fact would be estimates (something the State has already frowned on). IA current practice is to send the originating investigator an e-mail, advising of any concerns with Time Log completion (for their future reference/training). The IA Commander will continue to review compliance of the Time Logs, to see if any additional training is necessary.

## **CURRENT STATUS OF RECOMMENDATION 4 - IMPLEMENTED**

The IA Commander currently checks all IA files for the correct/current time log, both completion of entries and placement within the file.

## **Finding 4 – Missing Time Log Entries**

Internal Audit noted three different Time Log Forms (formats) being used to document Internal Affairs case activity and time.

- Eight of the 56 Time Log forms used during 2003 to 2005 contained a box for Date; Name/Rank/Title; Activity; and Time.
- Six of the 56 Time Log forms used during 2002 to 2006 contained a Forward To, Date, Total Time and Activity and on a separate line a Reviewed By, Date, Total Time, and Activity.
- Forty-four of the 56 Time Logs used during 2003 to 2007 contained boxes for Investigated By/Date/Total Time/Activity and additional boxes to show who the Case and Time Log were Forwarded to/Date; Received By/Date on the same line, and a line with the Activity and Total Time.

Forty-nine out of the 56 (88%) Time Logs had missing and/or incomplete entries. Internal Audit noted the following usage issues with the three Time Log Forms noted above which may lead to incomplete/inconsistent documentation of POBOR information for cost reimbursement purposes.

- All entries on the Time Log forms used during 2002-2006 and 2003-2007 were not completed when the case was forwarded throughout the Chain of Command up to and including closure of the case. Most of the missing entries were on the Time Log Forms used during 2003-2007.
- Form fields were not marked N/A or lined through if not applicable for the person entering activity/time data.
- Individuals other than the assigned Investigator were using the Investigated By field to enter time and activity.
- The Activity performed was missing on eight Investigated By lines and 17 Forwarded/Received By lines.
- The Total Time was missing on ten Investigated By lines and 20 Forwarded/Reviewed By lines.
- Five entries for activity and time were made by staff in the margins of the Form rather than in the proper Form field boxes.

Internal Audit did not review the Internal Affairs' case files to determine if there was documentation to support each time entry on the Time Log. Internal Audit was informed by Internal Affairs that only taped interviews have an actual start and stop time. All other entries on the Time Log are usually estimates of the time spent by the individual performing the activity. According to the California State Auditor State Mandates: The High Level of Questionable Costs Claimed Highlights the Need for Structural Reforms of the Process dated October 2003 in the Results in Brief section states: "... local entities based the amount of time they claimed on interviews and informal estimates developed after the related activities were performed instead of recording the actual staff time spent on reimbursable activities or developing an estimate based upon an acceptable time study."

Internal Audit concluded the 2003-2005 Time Log Form format was less cumbersome to use than the other Time Log Form formats which should result in greater compliance and consistency when completing the Activity and Time entries.

**Audit Recommendations:**

5. The Chief of Police or his designee should direct the Internal Affairs Lieutenant to review and develop a new Time Log Form that will more efficiently and effectively capture the activities and time spent on investigational cases.
6. The Chief of Police or his designee should direct the Internal Affairs Lieutenant to periodically, e.g. semi-annually, review Internal Affairs' Case File Time Logs for completeness and report the findings to the Deputy Chief of the Administrative Services Division.
7. The Chief of Police or his designee should consider whether all entries in an Internal Affairs investigation case file should have the actual start and stop time documented on the individual document for improved accuracy and accountability purposes.

**MANAGEMENT RESPONSE TO RECOMMENDATIONS 5 - 7**

Currently, each IA report is reviewed by the IA Commander prior to closing. See Finding 1 and 3 for timeline and Time Log review criteria.

**CURRENT STATUS OF RECOMMENDATIONS 5- 7 - IMPLEMENTED**

The IA Commander continues to review IA files for both completion and placement of the time log (See Status for Findings 1 and 3).

**Finding 5 – Time Log Entries Not Completed by Individual Performing Activity**

The Internal Affairs Senior Secretary identified two cases with missing Time Log entries that she entered another individual's information related to the case prior to Internal Audit's review. One entry made by the Internal Affairs Senior Secretary on a FY 2004 case was for the Case Investigator. The entry was the name of the Investigator, the date, total time, and the activity. Internal Audit did not request nor receive any information that would confirm the entry for the Investigator. Internal Audit was informed the Senior Secretary enters all the data on the Time Logs into the computer, although in the past an Investigator was allowed to enter their data.

The second entry made by the Internal Affairs Senior Secretary was on a FY 2006 case forwarded to a Deputy Chief. The entry was the date, activity and total time. Attached to the Time Log was a copy of an E-mail sent to a Police Lieutenant about the lack of information and the Lieutenant's response of estimated time spent related to the investigation.

In addition, Internal Audit was informed and noted that the Internal Affairs Case # is not always entered on each Time Log Form (or multiple Forms per case). Seven out of the 56 (13%)

Internal Affairs' cases reviewed did not contain the Case Number on the Time Log(s). To aid Internal Audit in their review, the Internal Affairs Senior Secretary added the Case Number, the date of the entry and her initials in full view of the Internal Auditors.

The Internal Affairs Senior Secretary has been instructed to enter only her time on the Time Logs. The Senior Secretary has also been instructed not to contact Officers who failed to enter their time on the Time Log. If an Officer involved in the investigation submits their time to the Senior Secretary, the time may be entered but the entry must note that the Senior Secretary is entering time for Officer X.

Internal Audit concluded the two entries made by the Senior Secretary without her designation on the Time Log to be insignificant. Internal Audit concluded entries on the Time Log by someone other than the person performing the activity could be eliminated, if each person performing an activity related to an investigation logged their own activity and time.

**Audit Recommendation:**

8. The Chief of Police or his designee should direct all employees involved with an Internal Affairs case to consistently and completely enter all their own data on the Time Logs for accuracy and accountability purposes.

**MANAGEMENT RESPONSE TO RECOMMENDATION 8**

Currently, the IA secretary no longer completes missing Time Logs or adds missing Time Log entries.

**CURRENT STATUS OF RECOMMENDATION 8 – IMPLEMENTED**

As stated in February's response, the past practice of the IA secretary completing missing time log entries is no longer allowed.

**Finding 6 – Mismatch Between Handwritten and Electronic Entries**

Internal Audit requested a copy of the Internal Affairs electronic Matching Labor Charges screens for the 56 Time Logs sampled. Internal Audit compared the handwritten Time Log to the electronic Matching Labor Charges to determine if there was a one-to-one entry match between both sources.

Internal Audit noted 34 out of the 56 (61%) Time Logs did not have a one-to-one match between each Activity and Time claimed on the handwritten Time Log and the electronic Case Labor Charges. Internal Audit noted the following types of discrepancies:

- Two out of the 56 time (4%) entries on the Time Logs had a decimal point missing. Therefore, the time recorded on the Time Log was greater than the time entered into the computer database (Examples 144 versus 14.4 and 10 versus 1.0).

- The total Case time on 15 out of 56 (27%) Time Logs and Case Labor Charges did not agree.
- Time for similar activities on some Time Logs was combined into one computer entry thereby making it difficult to always determine which handwritten entries had been combined.
- Total Time for an activity(s) on the Time Log were separated into multiple detailed time entries in the computer database.
- The activity description was not always an exact match between the handwritten Time Log and the Computer Case Labor Charges screen.

Internal Audit was informed by the Senior Secretary that the computer database has one restriction – the time entry field only allows two-digits. Therefore, if an Investigator spends over 100 hours on an investigation, two entries must be made into the computer database to document the total time of the activity, i.e. 99 and 1.

Based on the above findings, Internal Audit concluded the reported Time Log information in the computer system may result in over/under time reporting/costs for POBOR related activities and related reimbursement.

**Audit Recommendations:**

9. The Chief of Police or his designee, in conjunction with the Internal Affairs Lieutenant, should instruct the employee entering Internal Affairs’ activities and time into the computer system to enter exactly what the Time Log handwritten entry states for accuracy purposes.
10. The Chief of Police or his designee, in conjunction with the Internal Affairs Lieutenant, should request Information Services Bureau to modify the computer time-entry field from two digits to a three digit number, if feasible, for improved efficiency and accuracy.

**MANAGEMENT RESPONSE TO RECOMMENDATIONS 9 & 10**

Currently in IA, all time posted to the computer Electronic Billing system is posted directly from the individual entries listed on the Time Log. Lieutenant Martinez has already requested ISB update the computer system from 2-digit to 3-digit capability.

**CURRENT STATUS OF RECOMMENDATIONS 9 & 10 – 9 IMPLEMENTED AND 10 IN PROGRESS**

Currently in IA, all time posted to the computer Electronic Billing system is posted directly from the individual entries listed on the Time Log. Lieutenant Martinez has already requested ISB update the computer system from 2-digit to 3-digit capability.

## **Finding 7 – Non Restricted Access to Closed Electronic Internal Affairs Cases**

All Internal Affairs and three Information Services Bureau (ISB) staff have access to the Internal Affairs computer system to initiate cases, enter case information and close cases. After initial passwords are set-up, staff are also not required to periodically change their passwords.

All Internal Affairs staff can access and possibly edit material after a case is closed. The only way to detect a change is to run a report to show what information was changed. There is no security detection to determine whether someone attempted to enter the system inappropriately or who and what time someone entered the system to subsequently change information.

Internal Audit concluded that the failure to adequately restrict computer access to closed cases could potentially result in corrupting data of these highly confidential cases.

### **Audit Recommendation:**

11. The Chief of Police or his designee should determine which Internal Affairs/Department staff should have computer access to closed cases for improved security and internal controls over this highly sensitive and confidential data.

### **MANAGEMENT RESPONSE TO RECOMMENDATION 11**

The current level of security for closed IA files is sufficient. Any additional in-house security measures would begin to hamper IA investigators, who are regularly asked to complete admin paperwork/research on old/closed IA cases. Without access to the files, IA personnel would literally have to create all documents from scratch and not be able to reference the data needed for any follow-up/future reports needed. The hard-copy of IA files is maintained for 5 years (until established purging deadlines) in a secured room, within a secure/alarmed facility. To the best of my knowledge, there has never been an allegation of modified/tampered IA investigations. The electronic files are maintained with similar purging requirements, in a 'closed' computer system, not accessible from outside of the IA office. Additionally, the need for ISB personnel and janitorial personnel to enter IA is obvious. These entries are monitored by IA personnel; no one is allowed access to the building/equipment when someone from IA is not present.

### **CURRENT STATUS OF RECOMMENDATION 11 – IN PROGRESS**

In November, 2008, a request was made of IT personnel to modify the level of security access to completed (closed) IA investigations. Once implemented, only the IA commander will have unrestricted access to the electronic version of stored/closed IA investigations. Access to closed files on the IA database by anyone else would allow them 'read-only' privileges.

## **Finding 8 – Need for Improved Security of Internal Affairs Documents**

All documents related to an Internal Affairs investigation (whether conducted in the field or through the Internal Affairs Office) are stored in the Internal Affairs Division. Internal Audit

noted the hallway door into the storage area has a one-inch deadbolt. Internal Audit was informed that only during after-hours is the Internal Affairs storage file room door locked.

The Internal Affairs' case files are stored in lateral file cabinets. The file cabinets have locks but the locks are not used. Internal Audit was informed there are no keys to lock the file cabinets. The lateral file cabinets that store Internal Affairs investigational tapes do not contain locks. The file cabinets storing Complaints/Inquiries have locks but are never locked. The Release of Information case files are not locked.

Internal Audit concluded that the failure to adequately secure all Internal Affairs' documents/case files may result in missing case records and inappropriate exposure to highly sensitive and confidential records.

**Audit Recommendation:**

12. The Chief of Police or his designee should determine if file cabinets storing Internal Affairs' case files, tapes and other information related to the internal investigations of Officers should be locked at all times, or, at a minimum, during after-duty hours for improved internal control.

**MANAGEMENT RESPONSE TO RECOMMENDATION 12**

See Finding 7, current measures in place are already sufficient for protection of access/security. The IA office is a restricted building and the file cabinets, computers and storage areas are adequately protected. The document security also includes the IA Commander currently responsible for backing-up all IA files every 2 weeks, in the case of an actual fire or disaster to the IA building.

**CURRENT STATUS OF RECOMMENDATION 12 - IMPLEMENTED**

The above listed security measures remain in place. Additionally, in the spring of 2008, each individual file cabinet that stores completed IA documents was keyed/locked. These files are individually locked when not in use.

**Finding 9 – Compliance with Retention and Destruction of Internal Affairs Documents**

California Penal Code section 832.5 (b) states: "Complaints and any reports or findings relating to these complaints shall be retained for a period of at least five years." Internal Audit noted Internal Affairs had files dating back to FY 2003. Internal Audit was informed by Internal Affairs staff that files are retained for at least 5.5 years.

Internal Affairs indicated the investigational tapes are appropriately destroyed. This was confirmed with the Police Department Property and Evidence Section that Internal Affairs' tapes are destroyed by burning and that during calendar year 2007 two shipments of tapes were destroyed. Other documents are destroyed accordingly.

The Internal Affairs Division is in compliance with Penal Code 832.5(b), therefore, Internal Audit concluded no further test work was warranted.

**Audit Recommendation:**

Internal Audit has no recommendation at this time.

**MANAGEMENT RESPONSE**

Currently, there is a sufficient practice of maintenance/purging/physical destruction of IA files, tapes and documents.

**CURRENT STATUS**

No change to the current practices of retention and destruction of IA documents; the current rate of retention and destruction of IA documents was deemed sufficient.