

INTRADEPARTMENTAL CORRESPONDENCE

February 2, 2011
13.5

BPC No. 11-0079

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: BIASED POLICING UPDATE, QUARTERLY REPORT, 4th QUARTER 2010

RECOMMENDED ACTION

1. That the Board of Police Commissioners REVIEW and APPROVE this report.

DISCUSSION

The attached Biased Policing Quarterly Update, 4th Quarter 2010, is submitted for review and approval.

If you have any questions, please contact Commander Richard A. Webb, Commanding Officer, Internal Affairs Group, at (213) 485-1486.

Respectfully,



CHARLIE BECK
Chief of Police

Attachment

**BIASED POLICING UPDATE
QUARTERLY REPORT
January 31, 2010**

The purpose of this report is to provide the Board of Police Commissioners (BOPC) with a quarterly update on the Department's activities relative to biased policing (BP).¹ In addition, because this report is for the fourth quarter of 2010, year-end data is presented.

Data

There were 245² complaints of biased policing containing 494 allegations of biased policing for cases *closed* in 2010. Of the 245 complaints, only four (1.63%) involved an allegation of an ethnic remark. Seventy four (31%) of the biased policing cases involved allegations of discourtesy.

As the BOPC is aware, Internal Affairs Group has refocused its biased policing investigative efforts on the Constitutional aspects of the police encounter. Forty-nine (20%) of the complaints involved an allegation of false imprisonment. Thirty-one (12.7%) involved allegations of unlawful search.

Demographic data remained relatively constant when compared to past reports. A copy of the 2010 Year-end data is attached as Addendum No. 1.

Since the last report, IAG has made the following progress relative to biased policing.

Constitutional Policing Unit – Enhanced Investigations

On February 1, 2010, IAG deployed a unit solely dedicated to investigating complaints containing allegations of BP. To date, the Constitutional Policing Unit (CPU) has completed approximately twenty-five investigations. The investigative enhancements have previously been reported to the BOPC and recently evaluated by the Office of the Inspector General (OIG) and the Department of Justice. Those cases are, unquestionably, substantial improvements over previous biased policing cases.

Part of the intense learning curve of the CPU involved revising and enhancing the Biased Policing Protocols. What started as less than two pages is now a very comprehensive series of considerations and questions to be followed by the investigator. A draft copy of the revised protocols is attached as Addendum No. 2.

The protocols, as proposed, represent the best effort to investigate all aspects of a biased policing case. While the CPU can follow the protocols relatively easily because they have a limited caseload and transcribe all statements, other investigative entities within IAG may have difficulty in properly applying the protocols. The protocols significantly expand the content of a

¹ On August 19, 2008, the BOPC requested quarterly update reports.

² The report indicates there were 250 allegations of biased policing. However, there were 5 duplicate complaints and 6 duplicate allegations. The Commanding Officer, Internal Affairs Group, designed a new report format. Due to personnel shortages at TEAMS II, the new format has not yet been developed. The new report also includes more information on Constitutional Policing allegations and complaints.

case, which could easily overwhelm the capacity of IAG. However, the CPU laid the foundation for high quality biased policing investigations and IAG intends to not retract from that position.

Intake Education

After the December 7, 2010 BOPC meeting wherein the OIG expressed concerns about supervisory intake, Assistant Chief Paysinger directed that all Office of Operations (OO) supervisors be trained in biased policing personnel complaint intake procedures. This represented a significant challenge for Professional Standards Bureau (PSB) to accommodate the 17 training days scheduled by OO. To accomplish the training, PSB developed a scenario based lesson plan to instruct on proper personnel complaint intake. PSB then identified cadre from within IAG to conduct the training throughout the City. This required a "train the trainer" session to ensure compliance and familiarity with the lesson plan and uniformity in the training delivery.

To date, nearly three quarters of OO has been trained. Prior to the development of the lesson plan, Operations South Bureau requested the CPU to conduct ad-hoc biased policing training for its supervisors and many of its officers. PSB intends to go back and deliver the standardized intake lesson plan to OSB supervisors by the end of March.

Further, PSB, in cooperation with the Office of Administrative Services (OAS), will deliver this training to the remainder of the Department by the end of March 2011.

The training is significant for several reasons. PSB developed a specific interview protocol, entitled "LeaDeRS." LeaDeRS involved the use of the "Investigative Strategies" (Addendum No. 3) booklet that was developed nearly two years ago and revised several times by PSB. The "Strategies" booklet coupled with the Biased Policing Protocols were used as a guide for "intake" purposes with an emphasis on Constitutional Policing. The strategies were then to be used in conjunction with the interview format designed by PSB. Students were instructed to:

- Listen to the complainant's entire story without interruption.
- Determine the investigative strategies from the "Strategies" booklet to be used (biased policing, Constitutional policing, handcuffing, etc.) based on the complainant's story.
- Research and probe the complainant for clarification and insight into their version of events.
- Summarize the complainant's story back to them to ensure accuracy and completeness.

This training provided students with viable, lasting tools and skills to conduct a proper personnel complaint intake. Feedback has been very positive.

Adjudication

Internal Affairs Group continues to make adjudication recommendations to the chain of command in biased policing cases. This is an exhaustive effort. Most of those adjudication recommendations have yet to be closed and therefore are not reflected in this report. However, there have been at least four disagreements between IAG and the chains of command regarding adjudication recommendations. In all instances, the cases were forwarded to OO who concurred with IAG. It is anticipated that the cases where IAG was involved in adjudication recommendations will become more apparent in data for the next two quarters.

Summary

The end of 2010 and beginning of 2011 marked a significant increase in the quality of investigations by IAG. In addition, the remainder of the Department reaffirmed its commitment to Constitutional Policing by participating in training and being an active member in the adjudicative process. In the future, PSB will be working with OAS to provide eight hour training for tenured supervisors in intake and investigation of personnel complaints. That lesson plan is in development.

In addition, IAG is an active member in the Biased Policing Working Group, chaired by Assistant Chief MacArthur. The results of that effort will be reported under a separate cover.

Addenda

- 1- Biased Policing Complaints Data Report closed in 2010.
- 2- Biased Policing Investigative Protocols (Draft) February 1, 2011.
- 3- Investigative Strategies Booklet.

Biased Policing Complaints Closed Between Jan 1, 2010 and Dec 31, 2010

Accused Age Statistics

Median Age Mean Age

32	33.45
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Accused Ethnicity Counts

<i>Accused Ethnicity</i>	<i>Accused Gender</i>	<i># of CFs</i>	
AMERIND	MALE	1	0%
ASIAN/PAC	MALE	17	7%
BLACK	FEMALE	1	0%
	MALE	21	8%
CAUCASIAN	FEMALE	13	5%
	MALE	88	35%
FILIPINO	FEMALE	1	0%
	MALE	4	2%
HISPANIC	FEMALE	11	4%
	MALE	112	45%
OTHER	MALE	1	0%
Unknown	FEMALE	5	2%
	MALE	29	12%
	Unknown	33	13%

Complainant Ethnicity Counts

<i>CP Ethnicity</i>	<i>CP Gender</i>	<i># of CFs</i>	<i>% of Total</i>
ASIAN/PAC	FEMALE	2	1%
	MALE	1	0%
BLACK	FEMALE	33	13%
	MALE	115	46%
	UNKNOWN	10	4%
CAUCASIAN	FEMALE	7	3%
	MALE	20	8%
	UNKNOWN	1	0%
HISPANIC	FEMALE	13	5%
	MALE	28	11%
OTHER	FEMALE	3	1%
	MALE	5	2%
UNKNOWN	FEMALE	5	2%
	MALE	14	6%
	UNKNOWN	10	4%

Biased Policing
Complaints Closed Between Jan 1, 2010 and Dec 31, 2010

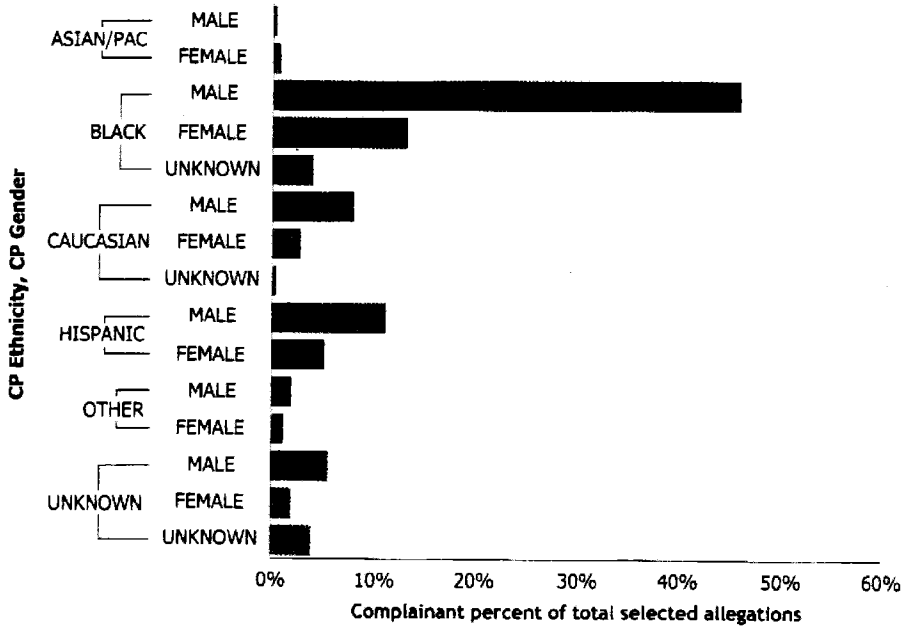
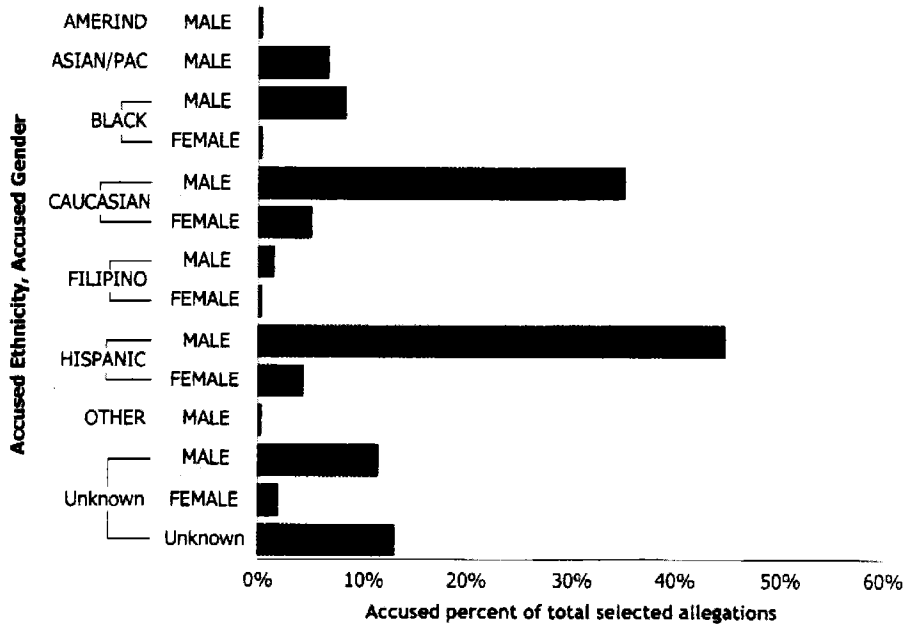
Associated Allegations for Biased Policing

<i>Allegation</i>	<i># of CFs</i>	<i># of Allegations</i>
Biased Policing	250	400
Discourtesy	74	108
Domestic Violence	1	2
Ethnic Remark	4	4
False Imprisonment	49	79
False Statements	14	22
Neglect of Duty	47	104
Racial Profiling	1	1
Theft	2	2
Unauthorized Force	41	78
Unauthorized Tactics	14	21
Unbecoming Conduct	50	95
Unlawful Search	31	52

Dispositions for Allegation: Biased Policing

<i>Disposition</i>	<i># of CFs</i>	<i>% of Total CFs</i>	<i># of Allegations</i>	<i>% of Total Allegations</i>
Duplicate	5	2.0%	6	1.5%
Exonerated	1	0.4%	2	0.5%
Insufficient Evidence to Adjudicate	20	8.0%	26	6.5%
No Department Employee	5	2.0%	5	1.2%
No Misconduct	4	1.6%	5	1.2%
Not Resolved	4	1.6%	7	1.8%
Unfounded	212	84.8%	349	87.2%

Biased Policing Complaints Closed Between Jan 1, 2010 and Dec 31, 2010



**Biased Policing
Complaints Closed Between Jan 1, 2010 and Dec 31, 2010**

Case Count by Bureau and Area/Division

<i>Accused Bureau</i>	<i>Accused Area</i>	<i># of CFs</i>	
CB	CENT	12	
	CTD	2	
	HOBK	4	
	NE	5	
	NEWT	9	
	RAMP	7	
CTSOB	METRO	10	
DB	CCD	1	
	GND	3	
Deactivated Org.	IG	1	
	ND MESB CBSBBUY	1	
	OO ADO CREW	1	
	OO ADO CREW SQUAD 130	2	
	OO ADO CREW SQUAD 140	3	
	OO ADO CREW SQUAD 150	3	
	OO ADO CREW SQUAD 30	2	
	OO ADO CREW SQUAD 40	1	
	OO ADO CREW SQUAD 60	1	
	OO ADO CREW SQUAD 70	3	
	OO ADO CREW SQUAD 90	4	
	OSS POL MEM	3	
	SB VC TASK FORCE	1	
	TERMINATED TEAM	1	
	UNASSIGNED TEAM	33	
	SB	77TH	10
		HARB	2
SE		7	
STD		10	
VB	SW	16	
	DEV	1	
	FTHL	2	
	MISN	11	
	NHWD	3	
	TOP	3	
	VB CECAT	1	
	VB MOTEL DETAIL	2	

**Biased Policing
Complaints Closed Between Jan 1, 2010 and Dec 31, 2010**

Case Count by Bureau and Area/Division

<i>Accused Bureau</i>	<i>Accused Area</i>	<i># of CFs</i>
VB	VB TF SQUAD 1	1
	VB TF SQUAD 2	2
	VB TF SQUAD 3	2
	VB TF SQUAD 5	3
	VNY	6
	VTD	13
	WVAL	7
WB	HWD	20
	OLYM	12
	PAC	10
	WIL	3
	WLA	5
	WTD	9

Biased Policing
Complaints Closed Between Jan 1, 2010 and Dec 31, 2010
Accused/Complainant Comparison

CF Count	Complainant:	BLACK		Unknown		HISPANIC		CAUCASIAN		ASIAN/PAC				
		MALE	FEMALE	UNKNOWN	MALE	FEMALE	UNKNOWN	MALE	FEMALE	UNKNOWN	MALE	FEMALE		
Unk.	MALE	16	0	0	1	1	2	3	2	3	1	0	0	0
	Unk.	10	7	0	7	1	5	4	3	2	0	0	0	0
	FEMALE	4	1	0	1	0	0	0	0	0	0	0	0	0
BLACK	MALE	7	1	0	3	0	0	2	2	5	2	0	0	0
	FEMALE	1	0	0	0	0	0	0	0	0	0	0	0	0
OTHER	MALE	0	0	0	0	0	0	0	0	0	1	0	0	0
AMERIND	MALE	1	0	0	0	0	0	0	0	0	0	0	0	0
FILIPINO	MALE	3	0	1	0	0	0	0	0	0	0	0	0	0
	FEMALE	1	0	0	0	0	0	0	0	0	0	0	0	0
HISPANIC	MALE	60	18	5	2	2	1	11	4	8	4	0	0	2
	FEMALE	6	1	1	1	0	0	1	0	1	0	0	0	0
ASIAN/PAC	MALE	9	3	0	0	0	1	1	1	2	1	1	0	0
CAUCASIAN	MALE	36	11	7	8	4	1	14	4	5	1	0	0	1
	FEMALE	3	2	3	1	0	0	3	2	0	0	0	0	0
Total		157	44	17	24	8	10	39	18	26	10	1	2	1

PROFESSIONAL STANDARDS BUREAU
BIASED POLICING INVESTIGATION PROTOCOL
FEBRUARY 1, 2011

STANDARDS OF REVIEW

Policy & Procedures

Department Manual Section 1/345 – Discriminatory conduct on the basis of race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability in the conduct of law-enforcement activities is prohibited. Police-initiated stops or detentions, and activities following stops or detentions, shall be unbiased and based on legitimate, articulable facts, consistent with the standards of reasonable suspicion or probable cause, as required by federal and state laws.

Department personnel may not use race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability (to any extent or degree) in conducting stops or detentions, except when engaging in the investigation of appropriate suspect-specific activity to identify a particular person or group.

Department personnel seeking one or more specific persons who have been identified or described in part by their race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability, may rely in part on race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability, only in combination with other appropriate identifying factors and may not give race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability, undue weight.

Law

Many biased policing cases involve Constitutional Policing issues. Refer to those Investigative Strategies for case law and additional information on search and seizure and/or unlawful detention.

INVESTIGATIVE STRATEGIES

Case Preparation

See General Complaint Intake – Investigative Strategies. In addition, the following case preparation strategies apply:

- If applicable and/or feasible, determine final outcome of any related traffic citation or legal proceeding, which complainant alleges was a result of biased policing. If available, obtain copies of transcripts or minute orders to compare statements of parties against statements made in this investigation.
- If complainant alleges officer selectively enforced law, allowing persons of other minority status to avoid similar enforcement, examine enforcement activities for the day around time of incident. Document data on race/ethnicity, violations, cites, warnings, arrests in an Investigator's Note.
- If stop was highly discretionary (tinted windows, cracked windshield, no front license plate, etc.), examine enforcement activities for the day (and if necessary, the days before and after) around the time of the incident. Include data on the stops in an Investigator's Note. Obtain traffic citation information from Information Technology Division for a 6 month period. Examine seven encounters (particularly discretionary) before and after this encounter and document in an Investigator's Note.
- Obtain photographic and visual documentation such as tinting of vehicle windows, diagrams of locations, maps of the area, etc. Obtain photos of tinted vehicle windows – even when the traffic stop does not involve any window tint violations. This information is useful to support or

refute claims regarding the officer's ability to determine the complainant's race or other factor of bias prior to the stop.

- If the complainant was cited, provide an analysis of the officer's stops for that day in an Investigator's Note. If numbers are minimal, obtain the information for additional consecutive work days. Include demographic data on the violators, violations, number of cites, warnings and arrests.
- All complainants shall be interviewed with rare exception. Decisions to not interview a complainant must be approved by the investigator's commanding officer and documented in an Investigator's Note. Consideration should be given to sufficient specificity of intake interview and/or correspondence, ability to interview the complainant, length of time from the incident to the date of correspondence, other existing reviews such as court proceedings, etc.
- All accused and witness officers shall be interviewed. In some unusual instances, officers may not need to be interviewed when there is overwhelming probable cause or video evidence that strongly refutes the allegation. The decision to not interview accused and witness officers must be approved by the investigator's commanding officer and documented in an Investigator's Note.
- When investigating 3rd party complaints, guidelines referring to complainants apply to the subject of the alleged bias.
- If the officer failed to appear in court or the court dismissed the complaint, the actions of the officer must be examined to probe the reasons.

Important: The questions listed below are combined to simplify this guide. During interviews, do not ask compound questions. In other words, break the questions into their separate components.

Mandated Questions for Complainants (Or Subject of Alleged Bias for 3rd Party Complaints)

- What prompted the complainant to make a complaint of biased policing or racial profiling?
- Complainant's definition or understanding of biased policing? *Probe for specific articulation.*
- Why does complainant believe he was the subject of biased policing or racial profiling? *Probe for specific articulation.*
- What actions or behaviors on the part of the officer(s) does the complainant believe support his allegation of biased policing? *Probe for specific articulation.*
- Did the officer(s) make any statements that would indicate racial bias? *Probe for specifics.*
- Actions of officer(s) at scene?
- Could the officer(s) have seen the complainant's race or other factor of bias prior to the stop?
- Direction of officer(s) approach? Where was complainant when he first saw the officer(s)?
- Was the complainant able to observe the officer's race prior to the encounter?
- What was the first thing the officer(s) said to the complainant?
- Did the officer(s) ask about the complainant's parole or probation status? When? Why does the complainant believe he was asked?
- Did the officer(s) ask to search the complainant and/or his vehicle or other property? When? Why does the complainant believe he was asked?
- Was the complainant searched? Location searched? Type of search? Scope of search?
- Why does the complainant believe he and/or his vehicle or other property were searched?
- Was the complainant handcuffed? Why does complainant believe he was handcuffed?
- Length of detention?
- What type of vehicle was the complainant driving? (Style, make, model, year, unusual or custom work that would make the vehicle stand out.) *Probe for specifics.*
- Were the vehicle windows tinted, if driving? Which windows? Window position at time of observation and stop? *Obtain photos of vehicle and windows.*

Note: Include this line of questioning even when the traffic stop does not involve any window tint violations. This information is useful to support or refute claims regarding the officer's ability to determine the complainant's race or other factor of bias prior to the stop.

- Did the officer(s) provide an explanation for the detention or stop?
- Why does the complainant believe he was stopped or detained?
- What was the complainant wearing when he was stopped or detained?
- Ask the complainant to describe the area where the stop or detention occurred?
- Did the complainant request that a supervisor respond?
- Did a supervisor respond to the scene?
- Was the complainant aware he was in violation of the law for which he was stopped or detained?
- At any point, did the officer(s) draw or exhibit their weapons?
- What is the complainant's expectation of law enforcement officers when they observe a violation of the law?
- If the officers who stopped or detained the complainant were of the same race (or other factor of bias) as the complainant, would he still believe he was profiled? Why?
- Does the complainant still believe he was the subject of biased policing or racial profiling? Why?

Note: It may be appropriate to allow the complainant to review/hear/see any evidence such as recordings, video, etc. of the event *after* being interviewed to determine if the evidence changes his opinion about the biased nature of the event. This is at the investigator's discretion.

Gang affiliation-related questions for the complainant(s)

- Did the officer(s) ask about the complainant's gang affiliation? When? Why does complainant believe he was asked?
- Does the complainant have any tattoos?
- Did the officer(s) ask about or comment on the complainant's tattoos? When? Why does complainant believe he was asked? *Probe for specifics.*
- Did the officer(s) ask to see the complainant's tattoos? What part(s) of the complainant's body were shown to the officer(s)? Why did the complainant consent to show the tattoos?
- Did the officer(s) photograph the complainant? Did the complainant give permission?
- Is the complainant a gang member? If yes, what gang? If no, was the complainant ever a gang member?

Mandated Questions for Officers

Reasonable suspicion or probable cause for the stop

- What first brought the officer's attention to the violator and/or the violator's vehicle? (Why stop *this* car, *this* person, *this* time?) *Probe for specifics.*
- What was the reason for the stop/detention? What triggered the officer to make stop or encounter?
- Obtain details specific to conclusionary statements such as, "officer safety," "uncooperative," "high crime area" or "consensual encounter." *Require articulation.*
- Did any other police units or Department personnel communicate to the officer(s), in any form or fashion (text, phone, hand signal, radio, etc.), to stop or detain the complainant or violator?
- What are the elements of the statute or code for which the complainant or violator was stopped?
- Ask each officer if he she queried the vehicle license plate before initiating the stop. How (radio, Mobile Digital Computer, other)?
- What was the conversation between the officers... specific to and prior to the stop/detention?
- Determine whose (which officer) decision it was to initiate the traffic stop/detention.

Officer's ability to determine complainant/violator's race or other factor of bias

- Location of the officer(s) and distance relative to complainant when first observed/encountered the complainant?
- Did the officer(s) know the complainant's race or other factor of bias *prior to* the stop/detention? How or why not?
- Did the officer(s) know the complainant's race or other factor of bias *after* the stop/detention? How or why not?
- When did the officer(s) first notice the complainant's race or other factor of bias?
- Was race or another category bias (minority status, etc.) a factor in the stop or detention? Explain why and how.
- What were the lighting conditions where the officer(s) first observed the complainant and/or his vehicle?
- What were the lighting conditions where the officer(s) ultimately stopped/detained the complainant? Were spot lights or take-down lights used?
- Were the vehicle windows tinted? Which windows? What was the position of the windows at time of initial observation? Describe the shade of tint.

Ordering occupants from the vehicle

- Did the officer(s) order the driver and/or other occupants out of the vehicle? Why? When?
- Was race or another category of bias a factor in ordering the driver/occupants out of the vehicle? Why?
- Does the officer always (or typically) order detainees/violators and/or other occupants out of the vehicle? Why?
- What is Department policy on ordering drivers and occupants out of a vehicle?

Parole or probation status

- Did the officer(s) ask about the complainant's parole or probation status? Why? When?
- Does the officer always (or typically) ask detainees/violators about parole and probation status? Why? If not, why this person, this time?

Searches

- If there was a search associated with the stop or detention, ask the officer(s) to articulate the reason(s), scope, type and intent of the search.
- Did the officer(s) ask to search the complainant, his vehicle or other property? Why? When?
- If the officer said the search was consensual, have the officer reconstruct the conversation and circumstances that resulted in the search.
- Was race or another category of bias a factor in the decision to search or request consent to search the complainant, his vehicle and/or his other property? Why?
- Does the officer always (or typically) ask to search detainees/violators, their vehicles or other property? Why?
- What is Department policy on searching a suspect, detainee, traffic violator, his property or vehicle?

Handcuffing

- Was the detainee handcuffed? By whom? Why?
- Was race or another category of bias a factor in handcuffing the detainee?
- What is Department policy on handcuffing a suspect or detainee?

Drawing or exhibiting weapons

- At any point, did the officer(s) draw or exhibit their weapons? Why?

Enforcement efforts

- What enforcement action was taken with the violator/detainee?
- Did the officer(s) complete any forms, citations or reports related to the stop, detention or arrest?
- After the initial stop/detention, was race or another category of bias a factor in the officer(s) enforcement efforts?
- What factors does the officer take into consideration when taking enforcement action relative to self-initiated stops and/or detentions? If the officer indicates that he does not understand the question, ask what specifically was not understood. *Explain and probe for specifics.*
- What are your enforcement options?
- What factors played into warning, citing or arresting this complainant or subject of alleged bias?

Biased policing or racial profiling

- Tell the officer that the complainant said the officer(s) treated him differently based on his race or another factor of bias. Ask the officer to respond to that.
- Did the detainee, violator or arrestee complain that he had been racially profiled or the subject of another factor of bias?
- Have the officer explain his understanding of racial profiling and biased policing.
- Have the officer explain his understanding of the concept of "profiling." How does that affect his work as a police officer?
- Have the officer explain a pattern of violations in the area where he works. How does that pattern recognition impact his day-to-day duties?
- Has the officer discussed the Department's position on biased policing with his partner, supervisor or other Department personnel?
- What is the Department's position on biased policing?
- Has the officer read or received training on IAG's Biased Policing Investigative Protocols? If not, why?
- During this incident, did the officers discuss together or did any of the officers say anything that would lead one to believe he might be targeting certain groups?
- Has the officer ever heard a partner or other Department personnel say they have to racially profile in order to do their job?

Gang affiliation-related questions for officer(s)

- Did the officer(s) consider that the complainant might have had any criminal street gang affiliation? Why? What were the specific indicators?
- Have the officer(s) describe the complainant's clothing (name brands, sports team affiliation) and hat (colors, logos), etc.
- Have the officer(s) describe the area. Is the area a known territory of any specific gang?
- Did the officer(s) ask about the complainant's gang affiliation? Why? When?
- Does the officer always ask detainees/violators about gang affiliation? Why? (Why *this* time, *this* person?)
- Did the officer notice any tattoos on the complainant?
- Did the officer(s) ask the complainant if he had any tattoos? Why? When? *Probe for specifics.*
- Does the officer always ask detainees/violators about their tattoos? Why?
- Did the officer(s) ask to see the complainant's tattoos? Why?
- Have the officer(s) describe the tattoos (monograms, numbers, words, names, pictures and logos).

- If the response is "gang tattoos," *probe for specifics*. Why does the officer believe they are gang tattoos?
- Did the officer(s) take any photographs of the complainant's tattoos? If yes, what is the related Department policy?
- What is the officer's training and experience in gang identification?

Requests for a supervisor

- Did the complainant request a supervisor?
- Did the officer(s) request a supervisor?

Law enforcement actions not related to self-initiated activities

- Outside information, which lead to detention, such as a radio call, citizen flag down, etc.? What descriptors were given for the suspect?
- If outside initiated information caused the detention, determine if the detention was reasonable (i.e., the complainant, in fact matched the description in the radio call). Determine what factors the officer relied upon in concluding that the suspect matched the description of the call.
- Determine if the officer completed any documentation related to the stop, and include this documentation as addenda items. If there are no other extenuating circumstances and the reason for the detention, search or other law enforcement activity is reasonable, legal and justified, no further investigation is necessary. (Officer interviews must be conducted.)

Additional

- What did the officer(s) first say to the complainant or violator when they approached? *Probe for specifics*.
- How did the contact with the complainant or subject of alleged bias end?
- Did the officer debrief the encounter with anyone (partner, supervisor or other Department personnel) after the incident?

CASE REVIEW

All completed personnel complaint investigations containing an allegation of biased policing shall be reviewed by the Section Officer in Charge and the Commanding Officer, Criminal Investigation Division, or the Commanding Officer, Administrative Investigation Division, and finally, the Commanding Officer of Internal Affairs Group, before distribution to the concerned commanding officer for adjudication.

Professional Standards Bureau
Internal Affairs Group
Investigative Strategies

Ensuring Accurate, Professional, and
Thorough Investigations

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**(This is a quick reference guide only and
should not be used as a source document.)**

February 2010

INVESTIGATIVE FORMAT HEADINGS

Investigative Responsibility

Identify Investigating Officer, contact information and division of assignment. Also inform the adjudicator that if any supplemental is needed, it must be requested on a 15.2.

Statute Issues

Address statute issues, tolling considerations and statute date determination in bold type.

Background (Optional)

Explain any past history related to the present complaint. In domestic violence cases this would include past incidents, status of the marriage, children in common and their ages.

Summary of Investigation

Give brief overview of the complaint, including the complainant's perspective, the officer's perspective and what the investigation revealed.

Allegations

Formally list and number all allegations. Include indented responses to highlight the merits of each allegation.

Facts Not in Dispute

Highlight facts that are irrefutable or not in dispute. Opinions or perspectives are not to be included in this section.

Timeline

Chronological sequence of events using source documents, electronic media or radio transmissions, rather than recollection, when possible.

Standards of Review

Provide adjudicator with the written policies, procedures or laws violated, as alleged.

Statements

Include paraphrased statement of each interview, excluding the "lead-in" information.

Evidence

Document all evidence collected and preserved. Include statement to explain the meaning and/or significance of each item.

Photographs

Document all photographs including a statement to explain the meaning and/or significance of each.

Canvassing

Document canvassing efforts to identify and locate witnesses and surveillance camera videos. Include specific names, addresses, and dates. If it was not done, explain why and who approved it.

Investigator's Notes

Document and explain discrepancies, changes in allegations, pertinent additional information, variance from required procedure and fulfillment of Investigative (Consent Decree) requirements.

Addenda

List all reference documents, photographs, videos and other materials related to the complaint investigation.

INVESTIGATIVE REQUIREMENTS

(Formerly Consent Decree Requirements)

Canvassing

Canvass the scene to locate witnesses and surveillance camera videos, where appropriate. Document specific names, addresses, and dates under Canvassing heading.

Evidence

Collect and preserve appropriate evidence. Document under Evidence heading in report.

Notifications

Notify involved officers and the supervisors of involved officers regarding complaint, except when complaint is deemed confidential. Document in Chronological Record.

Interviews

- Conduct interviews at sites and times convenient for complainants and witnesses, when practicable and appropriate. Document compliance or exceptions in an Investigator's Note.
- Record all interviews. Document compliance or exceptions in an Investigator's Note.
- Do not conduct group interviews. Document compliance or exceptions in an Investigator's Note.
- Interview involved supervisors relative to their actions at scene. Document compliance or exceptions in an Investigator's Note.
- Identify all inconsistencies in officer and witness statements and document within the investigation.

GENERAL COMPLAINT INTAKE

The quality of a preliminary complaint investigation significantly impacts its outcome. A thorough preliminary investigation can make the difference between resolving a complaint (such as exonerated, unfounded or sustained) and not resolving it.

The minutes and hours immediately following an incident, sometimes referred to as the "golden hour," are critical to gathering key evidence which might otherwise be lost. In many instances, witnesses are difficult to locate later or decide to not cooperate with the investigation. Evidence that is present at the scene is nearly always impossible to locate or recreate later in the investigation. It is vitally important that the initial intake and investigation be thorough.

Standards of Review

Special Order No. 1, 2003, Department Complaint Process – Revised.

Department Manual Sections: 3/815.01, General Investigation Guidelines and 3/816.01, Supervisor's Responsibility.

Case Preparation

- Identify all parties involved (complainant, witnesses, involved employees and supervisors at scene). For non-employees, obtain:
 - Name and verify identity (document driver license or ID No. and date of birth);

- Addresses (home and business or transient's "hang outs");
- Telephone numbers (home, cell and business); and,
- Best time to be re-contacted.
- Anticipate the need for specialized assistance or expertise. Use Department resources and experts to assist you.
- Collect and preserve evidence.
- Photograph scene, and if possible, include photos from each involved party's vantage point.
- Cause photographs to be taken of injuries or claims of injuries.
- Obtain any audio/video recordings or in-car camera recordings of the incident. Check nearby businesses and City streets for video cameras.** Do not retain originals in case package.
- Canvass location for witnesses as soon as possible after the incident occurs.
- Interview complainant and witnesses immediately, if possible, including all vehicle passengers, if vehicle was involved.
- Record all interviews and promptly book recordings at SID Electronics.**
- Include involved vehicle information and description in the preliminary investigation (year, make, model, license plate, color, tinted windows, if relevant).
- Obtain all pertinent documents related to the incident, including but not limited to Daily Work Sheets, DFARs, FIs, sergeant's logs, arrest reports, traffic citations, dispatch records and timekeeping records.
- Preplan the investigation and interviews using the Internal Affairs Investigative Strategies. For instance, if the complainant is alleging biased policing, use the Biased Policing Investigation

Protocol. If the complainant is alleging unlawful search, use the Constitutional Policing Issues and Unlawful Search Investigative Strategies.

- Do not meet with complainants alone. Have a partner to take notes for you.

****Note:** Do not maintain original recordings or photographs in case packages. Book all items according to procedure. Copies may be kept in packages.

Complainant Interview Questions

Ask pertinent questions. Remember, the initial contact could be our only chance to “nail down” the complainant’s statement.

- Address reasons for delay in reporting, if any.
- Assess sobriety.
- Nature of the relationship with the accused, if any.
- Probe for specifics (who, what, when, where, why, how) and address all inconsistencies.
- Allow the complainant to tell the story from his/her perspective from the beginning to the end. **Then**, go back and ask follow up questions and probe for specific information.

Witness Interview Questions

- Nature of the relationship with the complainant and/or accused, if any.
- What was seen and heard?
- What was the witness’ proximity to the incident?
- Probe for specifics (who, what, when, where, why, how) and address all inconsistencies.

CONSTITUTIONAL POLICING ISSUES

Law

Detentions - police may...

- ***Pennsylvania v. Mimms*, 434 U.S. 106 (1977)**
 - Order driver out of the vehicle once it's lawfully stopped.
- ***Maryland v. Wilson*, 519 U.S. 408 (1997)**
 - Order passenger out of the vehicle once it's lawfully stopped.
- ***Terry v. Ohio*, 392 U.S. 1 (1968)**
 - Stop and briefly detain for investigative purposes if the officer has a reasonable suspicion supported by *specific* and *articulable* facts that the individual is involved in criminal activity.
 - Conduct pat down search of outer clothing to search for weapons if the officer has reasonable suspicion supported by *specific* and *articulable* facts that the person is armed.
- ***Whren v. United States*, 517 U.S. 806 (1996)**
 - Allows for "pretext stops."
 - Officer's stop of a vehicle is reasonable where there is probable cause to believe a traffic violation has occurred.

- ***Florida v. Royer*, 460 U.S. 491 (1983)**
 - An individual may not be detained even momentarily without reasonable, objective grounds for doing so; and the refusal to listen to or answer an officer's questions, without more, does not furnish those grounds.
 - An investigatory detention must not last longer than necessary to effectuate the purpose of the stop.
 - Officers must use the least intrusive means reasonably available to verify or dispel suspicion in a short period of time.
 - "Where the validity of a search rests on consent, the State has the burden of proving that the necessary consent was obtained and that it was freely and voluntarily given, a burden that is not satisfied by showing a mere submission to a claim of authority."
- ***Illinois v. Wardlow*, 528 U.S. 119 (2000)**
 - Mere presence in high crime/narcotics area ≠ reasonable suspicion.
 - Presence in high crime area *in combination with* one or more other factors (i.e., flight from officers) may justify reasonable suspicion.
- ***U.S. v. Sokolow*, 490 U.S. 1 (1989)**
 - Must consider the totality of the circumstances in determining whether there is reasonable suspicion.

Parole/Probation Searches - California:

- ***Unites States v. Knights*, 534 U.S. 112 (2001); *People v. Sanders*, 31 Cal. 4th 318 (2003); *Samson v. California*, 547 U.S. 843 (2006)**
 - Officers must be aware of person's *parole* status **prior to a search of residence** in order to justify the search.

Searches of Vehicles Incident to Arrest:

- ***Arizona v. Gant* 129 S. Ct. 1710 (2009)**
 - Places additional limitations on the ability to conduct vehicle searches.
 - Police officers may only search the passenger compartment of a vehicle incident to the arrest of an occupant if: (1) the officer has a reasonable belief that evidence relevant to the offense of arrest may be found in the vehicle; or (2) the arrestee is not yet secured and is within reaching distance of the vehicle at the time of the search.

BIASED POLICING INVESTIGATION PROTOCOL

Examine Constitutional Policing Issues, Page 7.

Standards of Review

Policy & Procedures

Department Manual Section 1/345, Policy Prohibiting Biased Policing – Discriminatory conduct on the basis of race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability in the conduct of law-enforcement activities is prohibited. Police-initiated stops or detentions, and activities following stops or detentions, shall be unbiased and based on legitimate, articulable facts, consistent with the standards of reasonable suspicion or probable cause as required by federal and state laws.

Department personnel may not use race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability (to any extent or degree) in conducting stops or detentions, except when engaging in the investigation of appropriate suspect-specific activity to identify a particular person or group.

Department personnel seeking one or more specific persons who have been identified or described in part by their race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability, may rely in part on race,

color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability, only in combination with other appropriate identifying factors and may not give race, color, ethnicity, national origin, gender, gender identity, gender expression, sexual orientation, or disability, undue weight.

Investigative Strategies

Case Preparation

- Gather and review all documents related to the incident, including but not limited to DFARs, FIs, sergeant's logs, arrest reports, traffic citations, and any audio/video recordings or in-car camera recordings of the incident.
- If applicable and/or feasible, determine final outcome of any related traffic citation or legal proceeding, which complainant alleges was a result of biased policing.
- If CP alleges officer selectively enforced law, allowing persons of other minority status to avoid similar enforcement, examine enforcement activities for the day around time of incident. Document in Investigator's Note.
- Obtain photographic and visual documentation such as tinting of vehicles, diagrams of locations, etc.
- Canvass location, interview all witnesses.
- Generally, all CPs should be interviewed. However, in some instances, letters or other correspondence may provide specific enough information to not require an

interview. Decisions to not interview CPs shall be approved by IAG Section OICs. Consideration should be given to sufficient specificity in correspondence, ability to interview the CP, length of time from the incident to the date of correspondence, other existing reviews such as court proceedings, etc. The decision to not interview CP shall be documented in an Investigator's Note.

- Generally, all accused officers shall be interviewed. In some unusual instances, accused officers may not need to be interviewed when there is overwhelming probable cause or video evidence strongly refutes the allegation. The decision to not interview accused officers shall be documented in an Investigator's Note.

Complainant Questions

- Why does complainant believe he/she was the subject of biased policing? Probe for specific articulation.
- What behaviors on the part of the officer(s) does the complainant believe support his/her allegation of biased policing? Probe for specific articulation.
- Actions of officer(s) at scene?
- Could the officer have seen the complainant's race or other factor for bias prior to the stop? Direction of approach of officer?
- CP searched? Location searched? Type of search? Scope of search?
- Length of detention?
- Vehicle windows tinted if driving? Window position at time of stop? (Obtain photo of windows.)

- Complainant's definition or understanding of biased policing? Probe for specific articulation.
- Other statements made by officer that indicate bias?
- Officer provide explanation for detention or stop?

Officer Questions

- Reason for the stop, search or detention?
- Obtain details specific to conclusionary statements such as, "officer safety," "uncooperative," "high crime area" or "consensual encounter." Require articulation.
- Location of officer when first encountered CP?
- Did officer(s) know the race or other factor of bias of subject prior to the stop or detention?
- Was race or bias category (minority status, etc.) a factor in the stop or detention? If the answer is "yes," have the officer(s) explain.
- If there was a search associated with the stop or detention, ask the officer(s) to articulate the reason(s), scope, type and intent of the search.
- Lighting conditions, distance when the officer(s) made the observations?
- Windows tinted? Position of windows at time of initial observation?

Additional Questions for Officer - Other than Self-Initiated Activities:

- Outside information, which lead to detention, such as a radio call, citizen flag down, etc.?

- If outside initiated information caused the detention, determine if the detention was reasonable (i.e., the complainant, in fact matched the description in the radio call). Determine what factors the officer relied upon in concluding that the suspect matched the description of the call.
- Determine if the officer completed any documentation related to the stop, and include this documentation as addenda. If there are no other extenuating circumstances and the reason for the detention, search or other law enforcement activity is reasonable, legal and justified, no further investigation is necessary. (Officer interviews must be conducted.)

Case Review

All completed personnel complaint investigations containing an allegation of biased policing shall be reviewed by the Section Officer in Charge and the Commanding Officer, Criminal Investigation Division, or the Commanding Officer, Administrative Investigation Division, and finally, the Commanding Officer of Internal Affairs Group, before distribution for adjudication.

UNLAWFUL SEARCH

Examine Constitutional Policing Issues, Page 7.

Case Preparation

- Gather and review all documents related to the incident, including but not limited to DFARs, FIs, sergeant's logs, arrest reports, traffic citations, dispatch records, and any audio/ video recordings or in-car camera recordings of the incident.
- If applicable and feasible, determine the final outcome of any related traffic citation, legal proceeding, which complainant alleges was a result of the search and/or arrest.
- Canvass location, interview all witnesses.
- Consider constructing timeline of incident events using irrefutable documents when possible.

Complainant Questions

- Mode of dress?
- Actions of officer at scene?
- Actions of complainant just prior to contact with accused?
- Describe method of approach by officer...red light and siren, casual approach, etc.
- CP searched? Location searched? Type of search? Scope of search?
- Complainant's recollection of incident events timeline, including length of detention?
- Complainant's definition or understanding of state of law relative to lawfulness of search? *Probe for specific articulation.*
- Other statements made by officer(s) that may indicate motive for search?

- Did officer provide an explanation for detention or stop?
- Was consent sought or provided for search of person, vehicle or residence?

Accused –Witness Questions

- Discussions prior to stop?
- Establish prior knowledge by accused or witness of the complainant prior to stop (parole, probation, search conditions.)
- Manner which officer approached complainant?
- Actions of complainant just prior to contact?
- Description of complainant's clothing?
- Location prior to encounter with complainant?
- Description of complainant's actions during the encounter?
- Did the encounter change from a consensual encounter to a detention or arrest...if so, at what point?
- Reason for the stop, search or detention? Scope of search?
- Outside information which lead to detention, such as a radio call, citizen flag down, etc.?
- Obtain details specific to conclusionary statements such as, "officer safety," "uncooperative," "high crime area" or "consensual encounter." *Require articulation of justification for search.*
- Location of officer when first encountered complainant?
- Permission sought to search person, vehicle or residence?
- Any exigent circumstances articulated by officer for search...particularly of residence?
- Other officers or supervisor respond to the scene?

FALSE IMPRISONMENT

Examine Constitutional Policing Issues, Page 7.

Standards of Review

Training Bulletin April 2006: Legal Contacts with the Public.

The purpose of this bulletin is to assist officers in identifying and articulating the unique and specific details of encounters which may lead to an arrest. Topics, which are covered to varying extent, are:

- Fourth Amendment rights;
- Consensual encounter, detention, arrest
- Patdown search;
- Reasonable suspicion;
- Probable cause.

References are also included for further research on these and other topics.

Legal Bulletins published by Legal Affairs Division:

- March 15, 1995 – Distinguishing Between Detentions and Arrests
- January 31, 1996 – Case Law Summaries, Detentions and Arrests
- October 15, 1996 – Detentions

Case Preparation

- Gather and review all documents related to the incident, including but not limited to DFARs, FIs, sergeant's logs, arrest reports, traffic citations,

dispatch records, and any audio/video recordings or in-car camera recordings of the incident.

- If applicable and feasible, determine final outcome of any related criminal proceedings.
- Canvass location, interview all witnesses.
- Consider constructing timeline of incident events using irrefutable documents when possible.

Complainant Questions

- Detail sequence of events.
- Actions of complainant just prior to contact with accused? Demeanor?
- Mode of dress?
- Actions of officer at scene?
- Describe method of approach by officer...red lights and siren, casual approach, vehicle obstructing complainant's path?
- Complainant searched? Location searched? Type of search? Scope of search?
- Length of detention?
- Complainant's perception of the detention or stop...did s/he feel free to leave?
- Statements made by officer(s) that would indicate arrest, detention or consensual encounter?
- Did the officer(s) provide explanation for detention or stop?
- Additional officers or supervisors respond to the scene? Their actions?

Accused – Witness Officer Questions

- Discussions prior to stop?
- Prior knowledge by accused or witness officer of the complainant prior to stop (parole, probation, search conditions)?
- Actions of complainant just prior to and during the contact?

- Description of complainant's clothing?
- Detail the sequence of events and investigative actions.
- Outside information, which lead to detention, such as a radio call, citizen flag down, etc.?
- Type of stop initiated...consensual encounter, detention, arrest?
- Manner in which officer approached complainant?
- *Require specifics regarding the officer's actions at the time of the stop, such as position of the vehicle in relation to complainant, emergency lights activated, complainant's path blocked, commands, handcuffing, handguns drawn, etc.*
- Reason for the stop, detention or arrest?
- Did the encounter change from a consensual encounter to a detention or arrest? Why and at what point?
- Scope and justification for any search?
- Legal justification for each law enforcement action?
- Was the complainant given an explanation for the stop?
- Actions of any other officers or supervisors who respond to the scene?

SUBSTANCE ABUSE

Standards of Review

Review Employee MOU prior to any sobriety test.

Department Manual Section (DM) 3/836,
Administering Sobriety Tests to Department
Employees

An order to an employee to submit to chemical testing for drugs or alcohol must be based on objective symptoms of intoxication or reasonable suspicion that ingestion has occurred.

Typically, the basis for most substance abuse investigations is one or more of the following,

- Objective symptoms,
- Reasonable and articulable suspicion of ingestion such as:
 - A recognized pattern of progressively diminishing performance;
 - Statement(s) from an informant (complainant); or
 - Acknowledgment from the employee of a substance abuse problem.

If objective symptoms are observed or there is reasonable suspicion, request the employee to submit to testing. If employee refuses, request the first available officer of appropriate rank to order the employee to submit to testing. If a chemical test was administered outside the City, those test results shall be used for the administrative investigation.

Prior to requesting or ordering an employee to submit to a chemical test, consult:

- Employee's current MOU regarding any restrictions on chemical testing;
- Commanding Officer of IAG; and
- Employee's commanding officer (I/O's discretion).

Available Chemical Tests

- Breath test - When only alcohol intoxication is suspected. See DM Section 4/343.38.
- Urine test - Preferred method of testing for drug or alcohol ingestion. See DM Section 4/343.42.
- Blood test - Should be used only as a last resort or under special circumstances. See DM Section 4/343.40.

Case Preparation

- Gather and review all documents related to the incident, including, but not limited to, DFARs, FIs, sergeant's logs, arrest reports, traffic citations, dispatch records and any audio/video recordings or in-car camera recordings of the incident.
- If applicable and feasible, determine final outcome of any related legal proceedings.
- Attempt to corroborate the basis of the allegations.
- Observe and document objective symptoms.
- Consider the assistance of a DRE.
- Canvass location and interview all witnesses.
- Check the accused employee's work history, increased absences, and changes in behavior, productivity and sick time usage.

- Determine whether the accused was operating a vehicle or other type of conveyance.
- Check the accused employee's arrest and DMV records for unreported arrests.
- If there is a history of substance abuse, determine if a Settlement Agreement ("contract") was in effect.
- For cases involving controlled substances, consider obtaining a search warrant for the employee's locker, work area, vehicle and/or residence.

Complainant/Witness Questions

- Objective symptoms of substance abuse observed? Where, when?
- Type and amount of substance used? Where, when?
- Substance used on or off duty?
- Were there any other witnesses to the substance abuse?
- Observe traffic collision? Driver seated behind steering wheel, exiting driver's seat, staggering?
- Witness location, distance from vehicle, obstructions to view?
- Passengers observed?
- Other witnesses to traffic collision?
- Admissions or statements made by accused?
- Accused have any history of substance abuse? Arrested? Where, when?
- Changes in accused employee's personality, work, health, family life?

Accused Questions

- What type and amount of substance was consumed or ingested? Where, when? With whom?

- Circumstances leading to substance abuse?
- History and frequency of substance abuse? Prior arrests? Where, when?
- Changes in personality, work, health, family life?
- Under the care of a physician?

DOMESTIC VIOLENCE

Standards of Review

Field Notebook Divider, Domestic Violence Laws, LAPD Form No. 18.30.02: Provides guidance on domestic violence investigations and cites pertinent California Penal Code sections.

Seizure of Firearms at Domestic Violence Incidents: Peace officers at the scene of a domestic violence incident involving threat to human life or physical assault shall take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present (Penal Code Section 12028.5; OCOP Notice May 7, 2008; Special Order No. 4, 2006).

Determining the Dominant Aggressor: It is important to determine which party was the dominant aggressor. It is neither a crime nor domestic violence to defend one's self. Section 13701 of the Penal Code defines the dominant aggressor as the most significant aggressor, rather than the first aggressor (Operations Order No. 4, 2004).

Case Preparation

- Note the complainant's emotional and physical condition.
- Ensure all evidence is gathered and preserved, e.g. bloodied clothing, damaged phones/property.
- Ensure photographs are taken of injuries or lack of injury to complainant and accused, both the day of and a day or two after the incident.

- Ensure photographs are taken of scene and damaged property, e.g. broken furniture, holes in walls, damaged phones, phone cords pulled from the wall, evidence of alcohol consumption, general disarray.
- Canvass location and interview all witnesses, including children, "fresh complaint" witnesses, neighbors, and local law enforcement. Parental consent to interview a minor is not required for a criminal investigation within the City.
- Gather and review all documents related to the incident, including but not limited to DFARs, FIs, sergeant's logs, arrest reports, dispatch records and any audio/video recordings.
- Ensure firearms or other weapons were temporarily seized. **Consult IAG command for advice due to complexity of DV gun laws.**
- Obtain prior crime/arrest reports and dispatch records from within the City and from outside agencies.
- Check for protective orders in effect and obtain an Emergency Protective Order, if applicable. If an officer is named on a protective order, s/he is restricted from possessing firearms.

Complainant Questions

- Length and nature of relationship, e.g. current/past dating, married/divorced, engaged or cohabitating?
- Children in common, their names and dates of birth?
- Living arrangements.
- Prior incidents of domestic violence, reported and unreported?
- Protective orders in effect?
- What form the violence or abuse has taken?

- How long has the abuse been occurring?
- Any log or diary documenting the abuse?
- Is there a pattern of alcohol or substance abuse?
- Identity of the person who **first saw** the complainant after the incident (fresh complaint witness)?
- Identity of the person with whom the complainant **first spoke** about the incident (fresh complaint witness)?

Questions for the Children

- What has the child seen/heard his parent(s) do/say?
- Did any abuse or neglect of the children occur?

Questions for Neighbors or Other Witnesses

- What have neighbors seen or heard? Evidence of abuse, e.g. injuries, statements, yelling, fighting, police cars, etc.
- How frequent were the occurrences and when was the last incident?
- Who called police?
- Did witness observe how physical injury occurred?
- Statements by the complainant and/or accused after the incident?
- Description of the complainant and/or accused after the incident?

Fresh Complaint Witness Questions

Fresh complaint witnesses may provide details about the complainant's appearance and emotional state

immediately after the incident and may lend credibility to the complainant's statements.

- Date and approximate time the complainant first mentioned the incident?
- Statements by the complainant after the incident?
- Description of the complainant after the incident?

Accused Questions

- Detailed account of the incident, including why it occurred.
- History of domestic violence?

For criminal investigations within the City of Los Angeles

Bifurcate the criminal and administrative investigations.

For the criminal portion of the investigation, administrative rights do not apply. There is no right to an employee representative. Do administer Miranda admonition, but not Lybarger admonition. If the accused employee waives Miranda, do the interview. If no Miranda waiver, do not interview. Do not compel a statement for the criminal portion of the investigation.

When conducting the administrative portion of the investigation, the investigating officer shall administer the Administrative Admonition of Rights ("Lybarger admonition") and compel a statement. The compelled statement, under the threat of insubordination, constitutes a statement made under duress and cannot be used against the employee in a criminal proceeding.

SEXUAL MISCONDUCT

Standards of Review

Training Bulletin July 2003: The Interview and Crime Report

Training Bulletin July 2003: Gathering and Preserving Evidence

Training Bulletin May 2007: Medical/Forensic Examinations

Case Preparation

- Ensure all evidence is gathered and preserved. Evidence may exist at the scene of the assault, on the complainant and on the accused. Consider seizing, booking or printing the following: bedding, clothing belonging to the complainant and the accused employee, used condoms left at scene and other items which may have biological evidence or which may have been handled by the accused employee (latent prints).
- Ensure victim of sexual assault is transported to a Sexual Assault Response Team (SART) facility for a medical/forensic examination. Generally, forensic evidence should be collected within 96 hours of a sexual assault. However, in some cases, evidentiary examinations should be conducted after 96 hours. Obtain advice from experts when uncertain.
- If applicable, obtain an Authorization to Release Medical Information from the complainant.

- Determine whether there are any photographs, video recordings, telephone/cell phone records, e-mails or other documentation.
- Canvass the location and interview all witnesses. Witnesses can be crucial to sexual assault investigations. "Fresh complaint" witnesses may provide details about the complainant's appearance and emotional state immediately after the incident and may lend credibility to complainant's statements.
- Consider using pretext telephone calls as an investigative tool.

Complainant Questions

Coordinate the investigation to minimize the number of complainant interviews (criminal, administrative and medical/forensic interview).

- Location of occurrence.
- Elements of the crime (sexual acts committed).
- MO and identity of the accused.
- Nature of the relationship with the accused?
- How and when the complainant and accused met?
- Prior consensual sexual relationship?
- Tools, weapons, other objects or force used?
- Offered favors or compensation for sexual acts?
- Alcohol or narcotics involved?
- Provided anything to drink by the accused?
- Any items the accused touched?
- Threats or coercive statements?
- Statements made by accused (verbatim).
- Behavior and appearance of accused (birthmarks, tattoos, scars).
- Did the accused ejaculate and, if so, where?
- Condom used? Where discarded?

- Injuries sustained by the complainant or accused.
- Were there any witnesses?
- Identity of person who **first saw** the complainant after the incident (fresh complaint witness).

Accused Questions

- Nature of the relationship with the complainant?
- What happened, where and when?
- Alcohol or narcotics consumed?
- Did the complainant make any statements?
- Were there any witnesses?
- Sexual contact denied? Consensual? Forced?
Probe for specifics, particularly if DNA was found.

Witness Questions

- Aware of prior relationship between complainant and accused?
- Nature of relationship shared by the complainant and accused?
- Date and approximate time the complainant first mentioned the incident?
- Statements by the complainant after the incident.
- Description of the complainant after the incident.

HANDCUFFING

Standards of Review

Training Bulletin November 2008

The principle reason for handcuffing an arrestee is to maintain control of the individual and to minimize the possibility of a situation escalating to a point that would necessitate using a higher level of force or restraint. The decision to use restraining procedures and devices depends on common sense and good judgment. While felony arrestees shall normally be handcuffed, the restraining of misdemeanants is discretionary. The purpose of this Bulletin is to examine discretion in handcuffing and handcuffing techniques.

Discretion in Handcuffing

The handcuffing of an arrestee is not based on rigid criteria. It is determined by the nature of each situation as perceived by the officer. There may be extenuating circumstances which would make handcuffing a felony arrestee inappropriate. To ensure the effective and appropriate use of handcuffs, it is necessary to place the responsibility for the handcuffing of arrestees with the involved officer. Officers should evaluate all available facts concerning each arrestee prior to determining whether or not to use handcuffs. The varied nature of each arrest situation makes it unrealistic to provide specific and detailed guidelines regarding handcuffing.

When restraining an individual, the following factors should be considered: the possibility of the arrestee escaping or the incident escalating, a potential threat

to the officers and other persons, and the knowledge of the arrestee's previous encounters with law enforcement.

Case Preparation

- Gather and review all documents related to the incident, including but not limited to DFARs, FIs, sergeant's logs, arrest reports, traffic citations, dispatch records, and any audio/video recordings, or in-car camera recordings of the incident.
- Ensure photographs are taken of injuries or lack of injury to complainant.
- Canvass location, interview all witnesses.

Complainant Questions

- Handcuffs double-locked?
- Complainant report handcuffs too tight? If so, when first noticed? When, where and to whom reported?
- Complainant's definition of "too tight"? Require articulation of ability to move wrist, hands, etc.
- Request handcuffs to be loosened? Response?
- Advise the watch commander that the handcuffs were too tight? If so, actions taken?
- Handcuffs become tighter after application?
- Did complainant report any injuries from the handcuffs? If so, to whom? Medical treatment offered? *Attempt to obtain an Authorization to Release Medical Information.*
- Wrist or arm injuries prior to handcuffing? If so, what type of injury and to whom reported?
- Complainant wearing a watch, bracelet, or anything else which would interfere with the handcuffs?

- Did complainant pull against the handcuffs?
- Any altercation prior to handcuff application?

Accused –Witness Questions

- Why was the complainant handcuffed?
- Complainant's actions prior to handcuffing?
Altercation, rigid, passive, etc.?
- Handcuffs double locked?
- Complainant report handcuffs too tight? If so, when, where and to whom? Actions taken or not taken and why?
- Watch commander advised by the complainant that the handcuffs were too tight? If so, actions taken and by whom? If no action taken, why?
- Did complainant report any injuries from the handcuffs? If so, to whom? Medical treatment offered? *Attempt to obtain an Authorization to Release Medical Information.*
- Wrist or arm injuries prior to handcuffing? If so, what type of injury and to whom reported?
- Complainant wearing a watch, bracelet, or anything else which would interfere with the handcuffs?
- Did complainant pull against the handcuffs?
- Any altercation prior to handcuff application?
- Handcuffs ever inspected, by whom and any action taken as a result of inspection?
- Handcuffs applied other than Department authorized?
- More than one set of handcuffs applied?

THEFT

Standards of Review

Field Notebook Divider, Reporting Stolen (or Lost) Property, LAPD Form No. 18.39.00: Provides guidance on documenting and describing lost or stolen property.

Case Preparation

- Gather and review all documents related to the incident, including but not limited to DFARs, FIs, sergeant's logs, arrest reports, property reports, property receipts, traffic citations, dispatch records, related financial records, as well as any audio/video recordings or in-car camera recordings of the incident.
- Canvass location, interview all witnesses.
- If applicable, consider obtaining a search warrant for Department facility, desk, locker, residence, vehicle, etc.
- Consider constructing timeline of incident events using irrefutable documents when possible.

Complainant Questions

- Provide detailed description of the property/money missing (bills and coins by denomination and total value).
- How, when, where and from whom did complainant obtain the property/money?
- Provide any documentation of the property/money, such as ATM receipts, statements etc.
- Where was the property/money last seen by complainant?

- Actions of complainant just prior to missing the property/money?
- Any purchases made or checks cashed prior to detention? What, where, when?
- Was complainant under the influence of alcohol/drugs at the time of the incident? What type, how much?
- Describe nature of contact with officer.
- Was complainant searched? Type of search and by whom?
- Did other officers or persons have access to the missing property/money?
- Did complainant see officer remove the property/money? Where was it placed?
- When was the property/money first noticed missing?
- When and to whom was the property/money first reported missing?
- Who was present when the money was counted?
- Was complainant given a receipt for the property/money?
- If arrested, did complainant sign the money envelope verifying the amount deposited? If so, is the complainant claiming a discrepancy in the amount? Why?

Accused - Witness Questions

- Detail the sequence of events.
- Was the complainant searched? What type of search and by whom?
- Did other officers or supervisors respond to the incident?
- Who had access to the missing property/money?
- Did you see the property/money before it was missing? Where and when?

- Who counted the missing money/inventoried the property?
- Did the amount claimed by complainant match the amount counted by the other person(s)? If not, was the discrepancy documented?

IDENTIFYING UNKNOWN ACCUSED

Case Preparation

- Gather and review all documents related to the incident, including but not limited to Daily Work Sheets, DFARs, FIs, sergeant's logs, arrest reports, traffic citations, dispatch records, timekeeping records, and any audio/ video recordings or in-car camera recordings of the incident.
- Consider constructing timeline of incident events.
- Canvass location and interview all witnesses immediately, if possible, for detailed descriptions of involved officers and their clothing.
- Observe plain clothes officers immediately, if possible, to corroborate clothing descriptions.
- Consider use of a photo lineup.
- Determine the role of all involved officers.
- Utilize all available Department resources to check names (e.g. Mobile Digital Computer (MDC), Communications Division, Area Command Center (ACC), Department Roster, DFARs, Daily Work Sheets, and Information Technology Division).
- Give special attention to name spelling, alternative spellings and unique spellings. Even a single name could reveal an identity if that name is unique.

Complainant/Witness Questions

- Describe, in detail, each officer involved in the incident, including unusual or prominent characteristics, clothing or uniform. *Could the officer be from another agency?*

- Describe accused's vehicle in detail (make, model, color, markings, decals, light bar, damage, etc).
- Did the complainant/witness hear police radio communications? What was heard?
- How long, under what lighting conditions, and from what distance did the complainant/witness see the accused? Photograph the scene from different perspectives noting obstacles that may have obscured his/her view.
- Has the complainant/witness had prior contact with the accused? Where, when and under what circumstances?
- Did the accused officer speak with an accent?
- What was the role of each involved officer (first responding, arrest, back-up, transport, etc.)?
- Was the accused referred to by name or nickname?
- Did the accused provide information related to his/her employment (division, type of assignment)?
- Would the complainant/witness be able to identify the accused from a photo line-up?

**Interview Lead-in
(Non-Employee Witness)**

This is a digitally recorded interview of Complaint Investigation, CF No. _____.

Today's date is _____ and the time is _____. The location of this interview is _____.

Present to be interviewed is:

Name _____

Address _____

Telephone _____

DOB _____ CDL/ID _____

This interview is being conducted by:

Name _____ Serial No. _____

Name _____ Serial No. _____

Also present during this interview is:

Observer / Attorney / Employee Rep.

Name _____

Is the time and location of this interview convenient for you (the witness)? _____

This interview will be stored under the last name of the witness and the CF No. and assigned a Job No. at a later date.