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March 3, 2008

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Dear Commissioners:

Three weeks ago, the Los Angeles Police Department's Inspector General released an audit of complaint investigations by the Los Angeles Police Department's Internal Affairs Group that shows, for the third year in a row, an extraordinarily high incidence of serious flaws in the Department's complaint investigations. Three years is enough. The time has come to recognize that LAPD's present procedures do not provide a robust, impartial civilian complaint process that gives City residents confidence that their voices are heard and that faulty tactics or misconduct will be identified and corrected.

Civilian complaints should provide an early-warning system for internal problems and an opportunity to respond directly to community concerns about how they are policed. If the Department is committed to winning the trust of all Angelenos, it should make an effective complaint process a priority. The ACLU calls on this commission to take steps to reform the complaint process by placing responsibility for investigation of serious civilian complaints with civilian investigators or civilian supervisors.

In its audit, the Office of the Inspector General ("OIG") sampled 60 "high-risk" complaints, relating to serious allegations — typically including at least one allegation of excessive force. Of those, the OIG found 29 investigations — nearly half the total — suffered "one or more investigation quality concerns related to either pertinent information obtained in recorded interviews not being paraphrased within an investigation, not addressing or framing an allegation, and/or not completing a key investigative step." (*OIG Complaint Investigations Audit – FY 2007/2008*, at 2.)

Review of the narratives of specific incidents reveals that the OIG's conclusions are, if anything, understated. In incident after incident, investigators' summaries include statements exonerating officers that do not appear on taped evidence, and are sometimes directly contrary to the testimony purportedly summarized. For example:

- In an allegation of excessive force, a witness's statement that he could not see what happened because the complainant was on the ground surrounded by

officers was represented by the investigators as “contradict[ing]” the complainant’s account that the officers had stepped on his face. In the same incident, although the complainant pointed to the officers he said had used excessive force, who were in the hallway of the police station, the investigation neither identified nor interviewed any officers.

- In another complaint, investigators reported that a witness “refuted” the complainant’s allegations that officers pushed him to the ground unnecessarily and stepped on him, although the taped statement revealed that the witness said that she had not been watching the entire time and that officers had used force to push the complainant to the ground after he tried to run.
- Another complainant who alleged she had been handcuffed too tightly was described in the investigator’s report as admitting that she never told the officer that the handcuffs were too tight. Although that statement was the key piece of evidence on which the commanding officer deemed the complaint unfounded, the OIG found that it simply did not appear in any of the recorded interviews.

Sadly, shortcomings in complaint investigations are nothing new. The same audit in the previous two years has found problems to be similarly widespread. The OIG found 31 concerns of a similar gravity in a sample of 46 investigations in the 2005/2006 fiscal year Audit, and 37 serious concerns in a sample of 56 investigations audited in fiscal year 2006/2007.¹ The OIG’s review of racial profiling complaints issued last November also found that in five out of the six investigations examined, investigators failed to gather all the material information that was available, despite the Department’s adoption of specific protocols to improve racial profiling investigations earlier that year.² Moreover, the OIG in its previous reports made basic recommendations regarding testing tape recorders and documenting reasons why officers were not interviewed. In its most recent audit, the OIG determined that no training had been conducted to cure deficiencies identified in its previous reports and that, as a consequence, the problems persisted. (*OIG Complaint Investigations Audit – FY 2007/2008*, at 33–34.)

Thorough and independent investigation of civilian complaints is crucial to reform of the LAPD. The Department cannot flag problems in tactics or training or identify officers who repeatedly engage in misconduct if investigations into reported problems are flawed or biased. The importance of civilian complaints is evident from the Consent Decree which contains detailed requirements for the filing, investigation, and regular auditing and review of civilian complaints to encourage independent, high-quality investigations, and to use complaints to improve tactics

¹ See OIG, *Complaint Investigations Audit (Fiscal Year 2005-2006)* (Dec. 28, 2005); OIG, *Complaint Investigations Audit (Fiscal Year 2006-2007)* (Dec. 28, 2006).

² See OIG, *Review of the Department’s Use of the Professional Standards Bureau’s Racial Profiling Investigative Protocols* (Nov. 16, 2007).



and training and to identify problem officers.³ That these problems have been widespread and persistent, even at a time the Consent Decree has focused attention on improvement of the complaint process, shows that the present system simply is not working.

The ACLU calls on the Police Commission to take immediate action to fix the broken system of complaint investigation by utilizing independent, civilian investigators or placing the complaint investigation process directly under independent, civilian supervision. These models of civilian complaint investigation process have been successfully used in other jurisdictions such as San Francisco, New York, and Seattle. Civilian involvement in investigations would lend additional credibility to the complaint process and eliminate the concern that police should not be left to police themselves.

The Department cannot continue to ignore flaws in complaint investigations and hope that matters improve. The repeated indicators of failure call for action if Los Angeles is to build the trust in its Police that its residents deserve.

Sincerely,



Ramona Ripston
Executive Director



Peter Bibring
Staff Attorney

cc: Chief William Bratton, LAPD
Andre Birotte, LAPD Inspector General

³See, e.g. Consent Decree ¶ 93 (requiring that investigations of serious complaints be taken out of the chain of command and placed with the Internal Affairs Group); ¶¶ 90, 129, 130, 152, 162(c) (requiring regular audits of complaints by the Department, the OIG, and the court-appointed monitor; regular review of complaints by superior officers; and reports regarding complaints to the Police Commission); ¶¶ 74, 97 (ensuring complaints must be easily filed and requiring audits of complaint intake); ¶¶ 79–83 (imposing requirements on the quality and thoroughness of complaint investigations); ¶¶ 84–87 (establishing standards for fair and timely adjudication of complaints); ¶ 41(g) (mandating both inclusion of complaint information in TEAMS II record and evaluation of complaints filed for as part of officer's performance review or evaluation for promotion).