

PUBLIC SAFETY COMMITTEE REPORT relative to current disciplinary and grievance procedures and standards of the Los Angeles Fire Department (LAFD).

Recommendation for Council action:

NOTE and FILE the October 29, 2021 LAFD report, inasmuch as this report is for information only and no Council action is required.

Fiscal Impact Statement: Not applicable.

Community Impact Statement: Yes

For:
North Hollywood Northeast Neighborhood Council

Summary:

On November 3, 2021, your Committee considered an October 29, 2021 LAFD report relative to current disciplinary and grievance procedures and standards of the LAFD. According to the LAFD, the Professional Standards Division (PSD) was created on January 1, 2008. PSD is responsible for the oversight of the internal administrative investigative and disciplinary process. Additionally, the PSD utilizes the LAFD's Disciplinary Action Guidelines and Complaint Recording and Tracking System to effectively manage disciplinary issues. The PSD's mission is to conduct timely, impartial and thorough investigations of on-duty and off-duty allegations of member (sworn and civilian) misconduct. To that end, investigations include all evidence relevant to the allegations of member misconduct and relevant to the credibility of evidence and/or statements, whether inculpatory or exculpatory. In instances where a member has violated a Department policy, rule or regulation, it becomes the PSD's role and responsibility to recommend disciplinary and corrective action to the Fire Chief consistent with existing statutory authority and Department standards and policies. Finally, Charter Section 1060 outlines the disciplinary procedures for the LAFD and describes the rights and due process procedures afforded to sworn members. The Department also complies with the City Personnel Department's disciplinary guidelines in matters that involve civilian members.

When the Department/PSD is notified of a reported incident of alleged misconduct, the complaint is recorded into the Department's Complaint Tracking System (CTS). An intake interview is performed and the case is then assigned to investigators. As reported by the Office of the Independent Assessor in its report *2019 Annual Review of LAFD Complaints of Misconduct*, the LAFD has received 400 or more complaints per year, in the last four years. In 2020, the number of complaints rose to 564. To date, for 2021, the Department has received 217 complaints. Consistent with statutory authority including the Firefighters Procedural Bill of Rights Act (FBOR) (Government Section 3250 et seq.) and Charter

Section 1060, investigations of sworn members must be completed within one year of the Department learning of the alleged misconduct. There is no statute of limitations for civilian members, but PSD aims to complete those investigations within a one-year time period as well. Upon completion of an investigation, the investigative report and supporting materials are reviewed and a determination is made as to whether the evidence proves by a preponderance that the member violated a Department policy, rule or regulation.

In cases where an investigation proves that a member's conduct violated an LAFD policy, rule or regulation, procedures that relate to the disciplinary process are followed. When the Department has established by a preponderance of the evidence that the member engaged in misconduct, the adjudicator sets the appropriate penalty, using the *LAFD Penalty Guidelines for Sworn Members* adopted on October 28, 2008, as well as the twelve factors first enunciated in *Douglas v. Veteran's Administration* 5 M.S.P.R. 280, 306 (1981). The final Penalty Guideline to be considered when determining the appropriate level of discipline is the adequacy and effectiveness of alternative sanctions to deter misconduct by the employee and others. For civilian members, the Department utilizes section 33.2 from the Policies of the Personnel Department, *Guide to Disciplinary Standards*. Prior to the imposition of discipline, Department members are served with a Pre-Disciplinary Packet (aka the Skelly Packet), which includes the investigative report and related exhibits. The PSD is then responsible for conducting due process Skelly Hearings which affords a member to respond to the charges and an opportunity to mitigate the allegations prior to imposition of the Department's proposed disciplinary action. If the Department's proposed disciplinary action is upheld then the member is served with the Department's disciplinary documents.

All employees have a right to appeal discipline imposed by the LAFD. For sworn members who appeal the Department's discipline (suspension of 30 days or fewer), they can request a Board of Rights hearing. In those cases, the discipline is held in "abeyance" pending the outcome of the Board of Rights hearing. In other instances, where, based on the *LAFD Penalty Guidelines for Sworn Members*, discipline exceeded a 30-day suspension, the Department directed a Board of Rights hearing. Department directed Board of Rights cases will be prioritized when proceeding with the selection of a Board of Rights. The nature of the underlying case will also be considered when determining the scheduling of the selection of the Board of Rights. Appeals relating to civilian members are referred to as Civil Service hearings. Currently, the Department does not have any pending Civil Service hearings. After further consideration and having provided an opportunity for public comment, the Committee moved to note and file the City Clerk report. This matter is now submitted to Council for its consideration.

Respectfully Submitted,

Public Safety Committee

COUNCILMEMBER VOTE

RODRIGUEZ: YES

LEE: YES

BUSCAINO: YES

HARRIS-DAWSON: YES

KORETZ: YES

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11/3/21

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-NOT OFFICIAL UNTIL COUNCIL ACTS-