

LOS ANGELES POLICE COMMISSION

*Review of Complaint
Investigations Audit
Third Quarter
Fiscal Year 2003/2004*



Conducted by

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF
COMPLAINT 1.28 INVESTIGATIONS AUDIT
THIRD QUARTER, FISCAL YEAR 2003/2004**

I. BACKGROUND

In accordance with Consent Decree (CD) paragraph (¶) 129, Audit Division, Los Angeles Police Department (LAPD or Department), conducted an audit of Complaint Form 1.28 investigations. The purpose of the audit was to evaluate compliance with mandates included in CD ¶129, its subsections, primarily CD ¶129(iii), and other relevant paragraphs.

II. PURPOSE

Consent Decree ¶135 requires the Office of the Inspector General (OIG) to review the Department's Complaint Investigations Audit for quality, completeness, and findings. The audit report was completed by Audit Division and signed by the Chief of Police on March 31, 2004. The OIG received the audit report on April 5, 2004, within one week of completion as required by CD ¶135. The audit was completed according to the schedule prescribed by the Department's Annual Audit Plan, Fiscal Year (FY) 2003/2004.

III. PRIOR AUDITS

This is the first audit of complaint investigations conducted by the Department as required by the CD. On April 30, 2003, the Department completed an interim report entitled, *Interim Report on the Status of the Department's Efforts to Comply with the Consent Decree Mandates for the Management of Personnel Complaint Investigations*. This report was intended to identify areas within the personnel complaint process that required improvement. While this report did not satisfy the Department's requirement to audit the management of complaint investigations as required by CD ¶129, it did provide information on the Department's efforts towards managing and investigating complaint investigations as mandated by the CD. The report concluded that although the Department had made significant progress towards managing the personnel complaint process, more work was required to be fully compliant with all the mandates and provisions of the CD.

A total of six recommendations were made in the Interim Report. Audit Division reported on the current status of each recommendation in its audit report dated March 31, 2004. With the exception of Recommendation Nos. 3 and 4E, the Department has either adopted the recommendations or is conducting studies to determine the feasibility of adopting the recommendations. Recommendation No. 3 states the following:

Audit Division Recommendation No. 3

It is recommended that commanding officers cause periodic audits of interview tapes associated with personnel complaint investigations to ensure consistency between interview tapes and paraphrased statements.

Status Provided by Audit Division

“Although R&E (Review and Evaluation Section, Internal Affairs Group) conducts random, monthly audits to ensure consistency between tapes and paraphrased statements, the Department has not required commanding officers to conduct these audits.”

OIG Finding

The status provided by Audit Division does not address Recommendation No. 3. The OIG concurs with Audit Division that the Department does not require commanding officers (C/Os) to conduct audits of the consistency between tapes and paraphrased statements, however, the OIG believes that that was the purpose of the recommendation. Subsequently, the OIG reviewed the Audit Recommendation Status Report, First and Second Quarter, 2004, prepared by Civil Rights Integrity Division (CRID), which indicates that this recommendation has been included in the 2004/2005 Annual Audit Plan (AAP), with Professional Standards Bureau (PSB) as the responsible entity. Additional follow-up with PSB and Audit Division established that the audit scheduled on the 2004/2005 AAP would cover the retention and booking of tapes, not a comparison of the tapes to the paraphrased statement.

The OIG contacted CRID to verify the accuracy of its report and they indicated that Audit Division will in fact review the accuracy of tape-recordings and compare them with the paraphrased statement as part of the use of force and complaint audits scheduled for the second and fourth quarters of 2004/2005. The recommendation for Objective No. 3 on Page 15 of Audit Division’s report, states that the Department has included an audit of tape-recorded statements in the AAP for FY 2004/2005, to be conducted by each geographic bureau. It appears that there is significant confusion with regard to this recommendation. The OIG believes that the Department has not yet addressed this recommendation.

The OIG endorses Recommendation No. 3 and further offers that although tapes are currently reviewed during various stages after the above-mentioned investigations have been completed, at present there exists no review of the tapes by the adjudicators of the investigation at the Area/Division level. The OIG believes that a review of the tapes by the adjudicator or his/her designee would serve a number of purposes, the least of which, would be an early indicator of the veracity of said statements. Audit Division concurred

with this conclusion. The OIG therefore recommends that Recommendation No. 3 be adequately addressed.

In addition to the above recommendation concerning the accuracy and consistency of paraphrased statements, Audit Division made the following recommendation regarding personal cassette recordings.

Audit Division Recommendation No. 4E

It is recommended that an audit of retention of personal cassette recordings be conducted at each bureau.

Status

Audit Division reported that the status for this recommendation indicates that “The Annual Audit Plan for 2004/2005 has scheduled an audit of tape-recorded interviews by each bureau.”

In previous audits both Audit Division and the OIG have found it difficult to retrieve copies of personal cassette recordings made by officers at the scene because they were not booked at Scientific Investigation Division (SID). The OIG has also encountered instances where the I/O neglected to book copies of Department-issued tapes (documented in the investigation) with SID. Since Recommendation No. 3 was designed to address tape-recorded interview comparisons, the OIG further recommends that the tape audit referred to in the 2004/2005 AAP be expanded to include the retention and booking of both personal cassette recordings and Department-issued tapes to SID as required by Department policy and procedure.

Recommendation:

- **It is recommended that the audit (noted in the Annual Audit Plan for 2004/2005) related to audio tapes used in Use of Force and Complaint Investigations, be expanded to include the booking of both personal cassette recordings and Department-issued cassette recordings to SID as required by Department policy and procedure.**

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IV. OVERVIEW OF THE DEPARTMENT AUDIT

Audit Division utilized five¹ different populations of complaint investigations to evaluate nine different objectives, for compliance with CD mandates. Initially, Audit Division used a confidence level of 95% with an error rate of plus or minus seven percent to determine compliance for Population Nos. 1 and 2. Traditionally, the Office of the Independent Monitor has required that audits demonstrate compliance by use of a confidence level of 95% with an error rate of plus or minus four percent. Consequently, Audit Division submitted a *Correction to the Complaint Investigations Audit*, dated June 22, 2004. This report provided an explanation for Audit Division's sample selection and corrected the determination of compliance for the Objective Nos. 2, 7, 8, and 9.²

Audit Division evaluated the complaint investigations by using nine objectives:

- Objection No. 1 - Timeliness of completing the investigation;
- Objective No. 2 - Completeness of the investigation files;
- Objective No. 3 - Comparison between tape-recorded interviews and paraphrased statements;
- Objective No. 4 - Adequacy of the investigation;
- Objective No. 5 - Proper investigating entity assignment and allocation of position authorities to Internal Affairs Group (IAG);
- Objective No. 6 - Manager's review of past history;
- Objective No. 7 - Manager's evaluation of underlying problems and training needs;
- Objective No. 8 - Informing the complainant of the resolution of the complaint; and,
- Objective No. 9 - Referral of criminal conduct to the appropriate criminal prosecutorial authority.

Audit Division found the Department to be compliant with the proper review and adjudication of complaints by Department managers; all criminal cases were properly referred to the DA; interviews were always tape recorded; and investigative files were always complete. The audit also revealed however, that improvement was needed in three specific areas: completion of the majority of complaint investigations within the five-month period; inaccurately paraphrased statements when compared to the respective

¹ Population Nos. 1 and 2 utilized 30 closed complaints each that were initiated between January 2003 and August 2003. Population No. 3 consisted of 88 complaints, the total number of all complaints initiated from January 1, 2003 through March 31, 2003. Population No. 4 consisted of 74 complaints initiated during August 2003, excluding Failures to Appear (FTA), Failures to Qualify (FTQ), Preventable Traffic Collisions (PTC), and Use of Force (UOF) investigations. Finally, Population No. 5 utilized 8 personnel complaints, the total number of complaints initiated as a result of a Categorical UOF (CUOF) investigation and reported in the "LAPD Discipline Report for Fourth Quarter 2003 (October 1, 2003 through December 31, 2003)."

² As noted in Audit Division's *Correction to the Complaint Investigations Audit*, the number of non-compliant items needed to show overall non-compliance remains constant no matter the sample size or error rate. Therefore, the Department's non-compliance with Objective Nos. 3 and 4 remained unchanged.

tape-recorded interviews; and investigations that identified potential witnesses who were not interviewed, suggesting inadequate canvassing and collection of evidence by the Investigating Officer (I/O).

Audit Division noted that although R&E, IAG, conducts reviews of approximately three percent of complaint investigations completed Departmentwide, it is mandatory that Department complaint investigators and reviewers be given proper training and resources to assist them in effectively conducting and evaluating investigations.

Finally, Audit Division found the City out of compliance with Objective No. 5, allocation of position authorities to IAG. Although the City has authorized the necessary position authorities to IAG, the Citywide “freeze” has prevented the filling of those positions with qualified personnel.

V. METHODOLOGY

The OIG reviewed Audit Division’s Complaint Investigations Audit, Third Quarter FY 2003-2004, for quality, completeness, and findings. Audit Division utilized five different populations of complaint investigations, based upon various timeframes, to evaluate the various objectives identified in its audit.³

The following table illustrates both Audit Division’s and the OIG’s sample populations.

Table No. 1

Population No.	Audit Division Sample Size	OIG Sample Size
1	30	24
2	30	24
3	88	47
4	74	42
5	8	8

Subsequently, the OIG reviewed Audit Division’s working papers and randomly selected samples of each of the five different audit populations identified by Audit Division.⁴ In efforts to test Audit Division’s findings, the OIG utilized the same matrices, crib sheets, and checklists utilized by Audit Division to identify any anomalies. The matrices, crib sheets, and audit plan were also evaluated by the OIG in efforts to ensure that the audit

³ Audit Division evaluated each objective by utilizing five different populations of the most current complaint investigations available. Audit Division indicated that only objectives requiring a biopsy of the entire investigative report utilized a population of closed complaint investigations. In all objectives requiring only a partially completed investigation, more recent populations were used.

⁴ The OIG utilized a one-tail test with a confidence level of 95% and an error rate of plus or minus four percent.

objectives effectively assessed compliance with the mandates of the CD and Department policies and procedure.

Additionally, the OIG conducted reviews of all available tape-recorded interviews, identified in its sample population, to verify the accuracy of the attendant paraphrased statements.

Finally, the OIG reviewed the Training, Evaluation, and Management System (TEAMS) reports of each accused officer to verify that the complaint had been properly recorded and that the employee had completed any training recommended as a result of the complaint investigation.⁵

VI. CONCLUSIONS

The OIG determined that the audit quality, completeness, and findings were reliable based on the overall findings. The OIG identified a number of administrative and work paper issues that are detailed in Appendices A and B. The OIG concurred with the majority of the findings in Audit Division's report. Listed below are the OIG's determinations regarding the quality, completeness and findings of Audit Division's Audit of Complaint Investigations.

QUALITY

For the purposes of this audit, quality will be defined, as an audit that is complete and contains evidence needed to satisfy the audit objectives. The evidence presented must be true and the findings must be accurately portrayed. The findings must be adequately supported by the audit documentation, which must support the conclusions and recommendations made. Furthermore, issues that have the highest potential for adverse consequences should be evaluated and included in the report. The audit should provide the Department with the information necessary to facilitate management decisions and enhance the public accountability of the organization.

Objective No. 1 (CD ¶129a) measured the timeliness of the investigation. As indicated in Table No. 2 in the Findings section of this report, the OIG's findings were consistent with Audit Division's findings that the Department was out of compliance with the timeliness requirement. Similarly, the OIG withheld its determination of compliance with regard to Objective Nos. 2 (CD ¶129b), 7 (CD ¶90), 8 (CD ¶91), and 9 (CD ¶101) due to the inadequate sample size utilized by Audit Division.⁶ The OIG as did Audit Division found the Department non-compliant with Objective No. 3, due to Audit Division's

⁵ Not only did the OIG run the TEAMS report for purposes of this audit, but also as a part of the OIG's oversight responsibility to ensure that complaint investigation information is accurately recorded in TEAMS.

⁶ Any administrative and/or work paper issues concerning these four objectives can found in Appendices A and B.

finding that 11.7 percent of the investigations were materially different from the written paraphrased statements. Two administrative discrepancies were identified by the OIG with regard to Objective No. 4 (CD ¶129d) (See Appendix A, Administrative Issues, for detailed findings). Finally, the OIG concurred with Audit Division's findings with regard to Objective Nos. 5 (CD ¶129e) and 6 (CD ¶64).

The OIG identified a total of 14 discrepancies out of 145 possible complaint investigations (10%). None of these discrepancies were significant enough to change the final outcome of any of the investigations that were reviewed. Based on the low number of identified discrepancies, combined with the fact that all were relatively minor administrative or work paper issues, the OIG concludes that Audit Division conducted a quality audit that achieved the stated objectives.

COMPLETENESS

For the purposes of this audit, completeness will be defined as the identification and documentation in the working documents as well as the audit report of all of the issues raised during the review of the complaint investigations to include both significant and less significant issues. Additionally, completeness will include a determination of the adequacy of the audit populations.

The OIG identified 14 additional discrepancies, not identified by Audit Division that were administrative in nature and did not have a bearing on the outcome of the investigations (See Appendix A and B, for detailed findings). The number of relatively minor discrepancies is insignificant when compared to the comprehensiveness Audit Division's review.⁷

The majority of the issues identified by the OIG involved the working documents not corresponding with the findings noted in the report. In most instances, the OIG concurred with the audit report and not with the issues noted in the matrix.⁸ The OIG discussed with Audit Division the importance of documenting the ultimate conclusion on the working documents to which Audit Division agreed.

Audit Division utilized inadequate sample sizes for Populations 1 and 2. Consequently, compliance with Objective Nos. 2, 7, 8, and 9 could not be determined. A document

⁷ A total of 145 complaint investigations were reviewed for the five different populations identified by Audit Division. Not all investigations were reviewed in their entirety since not all Objectives required a biopsy of the entire investigation to determine compliance.

⁸ A number of matrices included responses that identified an issue, however Audit Division's project manager ultimately concluded no issue and did not report it on the audit report. In most instances, the OIG concurred with Audit Division's final report and not the response on the matrix. As a result, the OIG did not include the anomaly on the report, but only noted the discrepancy on the working documents and addressed it with Audit Division. The OIG only reported on issues not identified by Audit Division or issues that Audit Division reported as an anomaly and the OIG disagrees.

entitled *Corrections to the Complaint Investigations Audit*, dated June 22, 2004, provided Audit Division's explanation for the inadequate sample sizes. Although compliance could not be determined for the above listed objectives, the audit illustrated improvement in the complaint investigation process. Specifically, the Department is meeting the requirements that complaint investigations include all required forms and documentation as outlined in the IAG checklist. Interviews are being tape recorded when required and are being held at sites and times convenient for the interviewees. In those instances where additional misconduct may have occurred, those additional allegations are being appropriately addressed. Complaints are being adjudicated using the preponderance of the evidence standard.

Subsequently, the OIG concluded that Audit Division conducted a complete audit.

FINDINGS

For the purposes of this audit, findings shall present factual data accurately, completely, and fairly. Findings should be adequately supported by sufficient evidence in the auditors' working papers to demonstrate or prove the bases for the matters reported and their correctness and reasonableness.

The OIG concludes that with the exception of the 14 discrepancies previously identified by this audit, Audit Division successfully identified the pertinent issues related to the complaint investigation process.

VII. DETAILED FINDINGS

The personnel complaint investigations were evaluated utilizing the nine objectives delineated in the preceding section under *Overview of the Department Audit*. The OIG's findings are as follows:

Objective No. 1 (CD ¶129a) – Timeliness of the Investigation

Audit Division evaluated complaint investigations to determine if more than 50% of the total number of investigations reviewed were completed within five months from the date the report was reported to an uninvolved Department supervisor. As indicated in a supplemental report entitled, *Complaint Investigation Completion Dates*, dated April 15, 2004, some confusion existed in the evaluation of this objective. Ultimately, Audit Division utilized the Department Manual standard to evaluate the five-month completion requirement.⁹ The OIG concurs with the use of this standard.

⁹ Department Manual Section 3/820.01, defines completed as follows: "The investigation shall be considered complete when the accused employee's commanding officer meets with the employee to afford him or her the opportunity to review the investigation and Letter of Transmittal."

Based on a review of its sample population, the OIG concurs with Audit Division’s finding that the Department was non-compliant with Objective No. 1. Of the 47 investigations reviewed, only 21 (45%) were completed within five months. The OIG did not identify any additional complaint investigations that were not previously identified by Audit Division for this Objective.

**Table No. 2
Timeliness of Completing the Investigation**

	Total	Within Five Months	Not Within Five Months	Percentage Non-Compliant	Percentage Compliant
Number of IAG Investigations Reviewed	18	5	13	72%	28%
Number of Chain of Command (COC) Investigations Reviewed	29	16	13	45%	55%
Number of Investigations Reviewed	47	21	26	55%	45%

Objective No. 2 (CD ¶129b) – Completeness of the Investigation

Audit Division defined completeness of the investigation as an investigation that contained all of the appropriate and required documentation outlined in a checklist provided by IAG.

Based on a review of its sample population, the OIG found that the investigations contained the required documents delineated in the checklist, however, the OIG concurs with Audit Division’s *Correction to the Complaint Investigations Audit* dated June 22, 2004, that compliance could not be determined due to Audit Division’s inadequate sample size.

Objective No. 3 (CD ¶129c) – Statement Comparison

Audit Division compared tape-recorded statements paraphrased by the I/O to the original tape recordings to determine if the written summary contained any additions, deletions, or other inconsistencies that would materially change the individual’s statement or alter the findings of the investigation.

The OIG reviewed tapes for all of the investigations containing tape-recorded interviews in its sample population. Two sample populations containing 24 investigations each, all

closed between January and August 2003, were utilized for tape review. Of these 48 investigations, the OIG reviewed a total of 65 tapes associated with 21 investigations.¹⁰ Based on a review of its sample population, the OIG concurs with Audit Division's finding that the Department was non-compliant with Objective No. 3, due to the fact that 11.7 percent of the investigations contained recorded interviews that were materially different from the written paraphrased statements.¹¹ The OIG identified one investigation (CF No. 01-2162) that contained a minor discrepancy, not identified by Audit Division, between the paraphrased statement and the actual tape recording (See Appendix A for detailed findings).

Objective No. 4 (CD ¶129d) – Adequacy

Audit Division defined adequacy of the investigation as compliance with the requirements set forth in CD ¶¶80-86. The OIG evaluated Objective No. 4 utilizing the same sample population of 48 investigations used to evaluate Objective Nos. 2, 3, 4, 7, 8, and 9. The CD requirements reviewed are as follows:

Tape-Recorded Interviews (CD ¶80a)

Complaint investigation packages were reviewed to determine whether every interview was tape recorded when required or that a valid justification for not recording the interview was documented.

The OIG identified one investigation (CF No. 02-3625) where Audit Division made the assumption that Tape No. 25576 (inaccurate tape number) was in fact Tape No. 285142 (See Appendix A for detailed findings).

Based on a review of its sample population, the OIG concurs with Audit Division's findings that interviews were tape recorded when required.

Conduct Interviews at Convenient Sites and Times (CD ¶80b)

Audit Division reviewed complaint investigation packages to determine if interviews were conducted at a time and place convenient for the witnesses.

¹⁰ The sample populations have been designated as Population 1 and Population 2. Population 1 consisted of 24 investigations, 20 of which contained tape-recorded interviews. Population 2 also consisted of 24 investigations; two of which contained tape-recorded interviews. The OIG was unable to locate the tape for one investigation and consequently, only reviewed one tape from Population 2. Population 2 investigations were limited to FTAs, FTQs, and PTCs. Tape-recorded interviews are not required for these types of investigations.

¹¹ Complaint Form Nos. 01-4587, 02-4712, and, 02-4656 were noted in Audit Division's report as containing inaccurately paraphrased statements. These complaint investigations were not included in the OIG sample population and therefore were not reviewed by the OIG.

Based on a review of its sample population, the OIG concurs with Audit Division's findings that interviews were conducted at times and places convenient to the witnesses. The OIG did not identify any anomalies not identified by Audit Division.

Prohibit Group Interviews (CD ¶80c)

Audit Division reviewed complaint investigation packages to determine whether the I/O specifically stated that group interviews were not conducted. When not specifically stated, the investigation was reviewed to determine whether sufficient information existed to conclude compliance with this requirement.

Based upon a review of its sample population, the OIG concurs with Audit Division's finding that no inappropriate group interviews were conducted. The OIG did not identify any anomalies that were not identified by Audit Division.

Notify Involved Officers and their Supervisors of Complaint Investigations (CD ¶80d)

Audit Division reviewed complaint investigation packages to determine if the involved officers and their supervisors were notified of the complaint investigation in cases other than those deemed confidential under the law.

The OIG concurs with Audit Division's finding that all involved officers and their supervisors were notified of the complaint investigations. The OIG further noted that although one could infer that the employee and the supervisor are notified of the complaint when contacted by the I/O for the interview or when the C/O signs the complaint, there was no formal procedure in place for documenting compliance with this requirement. Recommendation No. 4B, noted in the Interim Report, suggested that the Department establish a formalized procedure to notify the accused officer and C/O of the complaint through Administrative Investigation Division. In a Chief of Police correspondence to the Police Commission entitled, *Audit Recommendation Status Report, First & Second Quarter, 2004*, dated June 1, 2004, the Department responded that "with the exception of confidential complaints, PSB (Professional Standards Bureau) sends copies of all complaints to the accused employee's division and bureau of assignment notifying the employee of the complaint. Professional Standards Bureau maintains a chronological log on each case to track the notification process that is kept on file at PSB's Administrative Records Section." The CD does not specify at what point the employee and supervisor should be notified of the complaint, nor does it require any formal documentation of said notification. As such, the OIG concurs with Audit Division's finding that the Department is compliant with this requirement.

Interview All Supervisors at Scene (CD ¶80e)

Audit Division reviewed the paraphrased statement for each supervisor who was at the scene during the alleged misconduct to determine whether his or her conduct at the scene was addressed.

Based on a review of its sample population, the OIG concurs with Audit Division's findings that supervisors at the scene were interviewed regarding their conduct at an incident.

Collect and Preserve all Evidence, Including Canvassing the Scene for Witnesses (CD ¶80f)

Complaint investigation packages were reviewed by Audit Division to determine whether the I/O stated that the scene was canvassed for all witnesses and whether all evidence was collected. When not specifically stated in the investigation, Audit Division reviewed the packages to determine whether these standard investigative practices were inferred within the investigation.

Based on a review of its sample population, the OIG concurs with Audit Division's findings that indicated there was insufficient evidence of canvassing the scene, either because canvassing the scene was not documented or because it did not occur.

The OIG also identified a complaint investigation (CF No. 02-4515) in which Audit Division indicated that the Department failed to collect and preserve evidence. This discrepancy was recorded on Audit Division's matrix but was not in the final report (See Appendix A for detailed findings).

The OIG noted three other investigations (CF Nos. 03-1919, 01-1756, and 03-1914) where discrepancies existed between the OIG's and Audit Division's matrix responses (See Appendix B, Work Paper Issues, for detailed findings).

Identify and Report in Writing Inconsistencies in Statements (CD ¶80g)

Audit Division reviewed complaint investigation packages to determine whether all inconsistencies in officers' and witness' statements were identified and reported in writing. The OIG concurs with Audit Division's findings that one investigation (CF No. 02-1511) failed to address inconsistencies between officers' and witness' statement based on a review of its sample population.

In that case, a complainant alleged excessive force and discourtesy on the part of an arresting officer. During the I/O's investigation, the complainant and a Van Nuys

Area Patrol Officer stated the complainant was held against a Animal Regulations truck. The accused officer and the Animal Control Officer stated the complainant was not held against the truck. The investigator never addressed this discrepancy.

Audit Division forwarded Intradepartmental Correspondence dated March 30, 2004, to the C/O, PSB, to address this issue. The response from PSB indicated that a copy of the audit had been forwarded to the Officer in Charge of the appropriate investigative section with specific instructions to discuss the issues with the concerned investigators and to provide training if necessary.

The OIG identified one additional investigation (CF No. 01-2162) where a minor discrepancy exists between the tape-recorded and paraphrased statement (See Appendix A for detailed findings).

Report/Investigate Additional Allegations of Misconduct (CD ¶82)

Complaint investigation packages were reviewed by Audit Division to determine whether there was any indication that misconduct other than that alleged by the complainant may have occurred. Follow-up was conducted in those instances where additional misconduct was identified during the course of the investigation to ensure that those additional allegations were appropriately addressed.

Based on a review of its sample population, the OIG concurs with Audit Division's finding that only one investigation (CF No. 03-0059) contained an additional allegation of misconduct that had not been appropriately addressed.

Audit Division forwarded Intradepartmental Correspondence dated March 30, 2004, to the C/O, Operations-Valley Bureau to address this issue. The response from the C/O, Foothill Area, indicated that the allegation was out of statute so a supplemental investigation would not be completed, however, the I/O received training and a Notice to Correct as a result of the audit. Additionally, Foothill Area indicated that they would continue to emphasize the issues identified in this audit. Finally, Foothill Area also indicated their Administrative Unit would also be conducting random comparisons of tape-recorded and paraphrased statements relative to complaint investigations prior to the final adjudication.

Investigators Shall Have Access to TEAMS Information (CD ¶83)

Audit Division reviewed all pertinent documentation to ensure all complaint investigators had access to all information contained in TEAMS, training records, prior complaint investigations, discipline histories, and performance evaluations.

The OIG concurs with Audit Division's finding that all IAG investigators have either personal access to TEAMS or have access to the information through sources within IAG.¹²

Employ Proper Standards When Determining Credibility (CD ¶84)

Audit Division reviewed all pertinent documentation to ensure that investigators adhered to the following standards when making credibility determinations:

- The use of standard California Jury Instructions to evaluate credibility;
- Consideration of the accused officer's history of complaint investigations and disciplinary records;
- Consideration of the civilian's criminal history, when appropriate;
- No automatic preference of an officer's statement over the statement of any witness or complainant;
- No automatic judgement that there is insufficient information to make a credibility determination when the only information about an incident is contained in conflicting statements; and,
- Absent other indicators of bias or untruthfulness, mere familial or social relationships with a victim or officer shall not render a witness' statement as biased or untruthful.

Based on a review of its sample population, the OIG concurs with Audit Division that there was no indication that anything other than acceptable standards were utilized when making credibility determinations. Audit Division did not note that the C/O appropriately used other methods to determine credibility in CF No. 01-0897. In two other investigations (CF Nos. 03-1357 and 03-0741) the OIG does not concur with Audit Division's findings and opines that no credibility determination was required (See Appendix B, Work Paper Issues, for detailed findings). None of these findings have a bearing on the ultimate adjudication of these investigations.

Adjudication Shall be Based on a Preponderance of the Evidence (CD ¶85)

Audit Division reviewed all pertinent documentation to ensure complaints were adjudicated using a preponderance of the evidence standard and that no complaint was closed without a final adjudication.

¹² Audit Division conducted an interview with the C/O, Administrative Investigation Division, IAG, who confirmed this information. This fact was also corroborated by Audit Division, in the Chief of Police correspondence to the Police Commission dated December 12, 2003, in the *Audit Recommendation Status Report, Fourth Quarter, 2003*.

The OIG concurs with Audit Division's findings that all allegations were adjudicated using a preponderance of the evidence standard and that no investigations were closed without a final adjudication.

All Reasonable Efforts Shall be Utilized to Investigate a Complaint (CD ¶86)

All complaint investigations, including those where there was a withdrawal of a complaint, the complainant was unable to make a statement, or the complainant was filed anonymously, were reviewed in their entirety by Audit Division, to determine if the I/O used reasonable efforts to conduct the investigation. Pertinent factors, such, as the type of investigation conducted, were considered in determining "reasonable."

Based on a review of its sample population, the OIG concurs with Audit Division's findings that the I/Os used every reasonable effort to investigate the complaints.

Objective No. 5 (CD ¶129e) – Investigating Entity

Complaint investigations were reviewed by Audit Division to determine whether the complaint investigation face sheets were received by IAG within ten days of being reported to an uninvolved Department supervisor.¹³ Upon receipt of the face sheet, IAG should have reviewed the face sheet, assigned the complaint to the appropriate investigative entity, forwarded the complaint package to the investigative entity, and forwarded a copy to the OIG within seven calendar days from the date received by IAG.

The City was also to have allocated the necessary position authorities to the LAPD to facilitate implementation of CD ¶¶93 and 94 by December 31, 2002.

Based on a review of its sample population, the OIG concurs with Audit Division's findings that IAG is receiving complaint face sheets within ten days of being reported to an uninvolved supervisor and IAG is assigning them to the appropriate investigating entity. Furthermore, IAG is providing the OIG with a copy of the face sheet within seven calendars from the date received by IAG.

Objective No. 6 (CD ¶64) – Manager's Review of Past History

Audit Division examined complaint investigations that were initiated as a result of an officer's involvement in a CUOF incident to determine whether managers reviewed and considered an officer's work history and prior involvement in a CUOF incident, when

¹³ FTAs, FTQs, PTCs, and UOF complaints receiving an Administrative Disapproval are exempt from the ten-day compliance mandate per PSB Bureau Notice dated October 20, 2003, *Consent Decree, Paragraph 79 – 10-Day Compliance*.

making recommendations regarding disciplinary or non-disciplinary actions. Tactics the officer used in past uses of force were also reviewed.

Based on a review of its sample population, the OIG concurs with Audit Division that as it relates to Categorical Uses of Force, there was evidence within the investigation that a C/O reviewed prior the officer's work history, including prior uses of force and tactics when adjudicating a complaint.

Objective No. 7 (CD ¶90) – Identify Training Needs

Complaint investigations were reviewed by Audit Division to determine whether managers evaluated the complaint investigations to identify any underlying problems or training needs. The investigations were also reviewed to ensure that any recommended training or appropriate non-disciplinary actions were implemented.

Based on a review of its sample population, the OIG concurs with Audit Division's findings that the complaint investigations contained evidence that the C/Os evaluated the investigation to identify underlying problems and training needs when appropriate. The OIG did not concur with Audit Division's findings related to CF No. 03-0741. In this complaint Audit Division indicated they were unable to determine whether a manager evaluated the complaint for underlying problems or training needs (See Appendix A, Administrative Issues, for detailed findings). This finding did not change the ultimate finding of compliance for this objective.

Objective No. 8 (CD ¶91) – Resolution to Complaint

Audit Division reviewed complaint packages to determine if written notification, where appropriate, had been sent to the complainant detailing resolution to the complaint. Based on a review of its sample population, the OIG concurred with Audit Division's findings that the investigation included evidence that correspondence was sent to the complainant providing the resolution of the complaint.

The OIG identified one investigation (CF No. 01-0897) where Audit Division incorrectly indicated that the complainant was notified of the resolution to the complaint, however the complainant was anonymous and a resolution letter was not sent out. This finding does not have any bearing on the quality, completeness or finding of the complaint investigation.

Objective No. 9 (CD ¶101) – Referring Criminal Conduct

Audit Division reviewed complaint investigations containing sustained allegations of criminal misconduct, or investigations that contained a compelling reason for legal review to determine whether they had been submitted to the appropriate prosecutorial

authority for filing consideration. Audit Division identified three complaint investigations with evidence of criminal misconduct that were appropriately referred to the DA.

The OIG did not identify any additional complaint investigations with evidence of criminal misconduct that were not identified by Audit Division.

Other Related Matters

TEAMS Reports

Audit Division reviewed the TEAMS reports for all accused employees to determine whether the complaint had been properly recorded and if the employee had actually attended any recommended formal training.

The OIG concurs with Audit Division's findings that the TEAMS reports were updated to include the corresponding complaint investigation (CF No.) for all accused employees. The OIG did not identify any additional TEAMS reports that did not document recommended training.¹⁴

Status Update Correspondence

Complaint investigations were reviewed by Audit Division to determine whether a properly formatted status update letter had been sent to the complainant within one week of the five-month anniversary of reporting the complaint to the Department.

Based on a review of its sample population, the OIG concurs with Audit Division's findings. However, the OIG identified one additional investigation (CF No. 03-1333) where the date the complaint was reported to the Department was not the date used to calculate the five-month letter requirement (See Appendix A, Administrative Issues, for detailed findings).

VIII. POST AUDIT MEETING WITH AUDIT DIVISION

A post-audit meeting was conducted with Audit Division on July 14, 2004, to discuss the OIG's findings. The OIG and Audit Division did not concur on a number of administrative issues that were either attributed to the phrasing of the matrix questions, the responses available on the matrix questions, and/or Audit Division inferring a

¹⁴ The issue of updating the TEAMS reports to reflect recommended training in the appropriate TEAMS reports has been addressed in various audits, including the OIG's Non-Categorical Use of Force audit. The Department responded through its Audit Recommendation Status Report, First & Second Quarters, 2004, that TEAMS II will incorporate training information.

response. Audit Division indicated that the matrix would be revised to address the issues discussed with the OIG and any issues they have identified. Audit Division also concurred with the OIG's finding that the working papers did not correspond with the audit report and indicated they know the importance of it.

IX. RECOMMENDATIONS

The OIG concurs with Audit Division's recommendations that specific language be included in the complaint investigation as well as the tape recording of witnesses. The information to be included should note that the interview was conducted at times and sites convenient for the interviewee, that a group interview was not conducted, that all evidence was collected and preserved, that the area was canvassed for all witnesses and evidence. This effort will allow the Department and the OIG to be able to measure compliance with the mandates of CD ¶80.

The OIG further recommends the following:

- It is recommended that the audit (noted in the Annual Audit Plan for 2004/2005) related to audio tapes used in Use of Force and Complaint Investigations, be expanded to include the booking of both personal cassette recordings and Department-issued cassette recordings to SID as required by Department policy and procedure.

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APPENDIX A
Administrative Issues

CF No.	INVESTIGATING ENTITY	ISSUE
CF No. 02-4515	Northeast	Audit Division concluded that the Department failed to collect and preserve a note that a witness provided to the complainant. The OIG believed that the note in question was not provided to the I/O, but instead was shown by one witness to the complainant, and therefore was not evidence that was even available to the Department. Additionally, Audit Division indicated that one could infer that canvassing occurred in this investigation based on the quality of the investigation. The OIG does not concur. All interviews with the exception of the accused were conducted telephonically. It appears that not only was the scene not canvassed, but there is also no documentation that the I/O ever visited the scene.
CF No. 02-3625	IAG-Central	Tape No. 25576 could not be located for review. Audit Division's work papers indicated they were unable to locate the tape due to an inaccurate tape number and to see Tape No. 285143. When contacted to clarify this issue, Audit Division indicated that they made the assumption that the discrepancy involved a typographical error and that the interview was conducted on Tape No. 285143, but that they had not verified this fact with the I/O. The OIG followed up with the I/O and verified that the correct tape number was in fact Tape No. 295143. Audit Division did not consider this an anomaly and did not report it.
CF No. 01-2162	Southwest Area	The paraphrased statement on Tape No. 282342 mentions that the officer indicated that his partner observed a minor scratch on the <u>chest</u> of the complainant. The actual tape-recorded statement indicates that the scratch was observed on the complainant's <u>neck</u> . The OIG found that this minor inconsistency would not affect the outcome of the investigation.
CF No. 03-0741	Rampart Area	Audit Division indicated that they were unable to determine whether a manager evaluated the complaint for underlying problems or training needs. The OIG does not concur. The Alternate Complaint Resolution (ACR) process was used to resolve this complaint and an evaluation of the accused officer's work history is required as a part of this process. Although not specifically stated, one could infer that by approving the ACR process, the manager has already evaluated the investigation for problems/and or training needs. Audit Division also noted that there was no indication that the manager used anything other than acceptable standards when determining credibility. The OIG believes that no credibility determination was needed because the ACR process was used. Question 7, 8, 9, 17, 18, and 19 were not applicable to the ACR process. A matrix tailored more to these types of complaints would facilitate a more effective evaluation of this process.

APPENDIX A
Administrative Issues

CF No. 03-1333	Pacific Area	Audit Division indicated that no five-month letter was required since the investigation was completed within the five-month period. The OIG does not concur. This investigation was completed on 8/19/03. The date this investigation was reported to the Department is listed on the face sheet as 4/7/03, then crossed out and re-entered as 1/28/03, the date the Department actually received the correspondence. No five-month letter was issued for this complaint.
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APPENDIX B
Work Paper Issues

CF No.	INVESTIGATING ENTITY	ISSUE
CF No. 03-1919	77th Area	Audit Division concluded that the Department <u>did</u> collect and preserve all evidence in this investigation. The OIG concluded that there was no evidence to collect.
CF No. 02-4233	IAG-FVU	Audit Division noted that there was no indication that the manager used anything other than acceptable standards when determining credibility. The OIG opines that no credibility determination was necessary because there was insufficient evidence to adjudicate.
CF NO. 01-1756	IAG-DVU	Audit Division indicated on their matrix that canvassing the scene was only inferred in the investigation because the I/O did not use the term canvassed. The OIG does not concur since the investigation noted that the officer canvassed the scene but was unable to locate any witnesses to the incident.
CF No. 03-1914	Pacific Area	Audit Division indicated that one could infer that canvassing occurred based on the quality of the investigation. The OIG does not concur. The OIG found there was no indication that the scene was canvassed. Audit Division also indicated that the fact that this investigation had been changed from non-disciplinary to disciplinary was a minor administrative issue. The OIG does not concur. The C/O has the authority to re-classify complaints after the initial classification.
CF No. 02-4194	77th Area	Audit Division indicated that there were no inconsistencies between officers' and witness' statements. The OIG disagrees and notes that there were numerous inconsistencies, which were addressed by the investigation.
CF No. 01-0897	Southeast Area	Audit Division indicated that the manager did not use anything other than the standard delineated in the matrix to adjudicate the investigation. The OIG determined that the manager used a confidential informant and surveillance team in addition to the standards delineated by the Department, to determine credibility.
CF No. 03-1357	Pacific Area	Audit Division indicated that there was no indication that the manager used anything other than acceptable standards when determining credibility. The OIG opines that no credibility determination was necessary because the manager had a tape recording of the encounter.
CF No. 02-1511	IAG-VAL	Audit Division noted that there were significant issues regarding the tape-recorded interviews that were not addressed in the matrix. The OIG does not concur. All significant issues were addressed in the matrix and the most significant issue was noted in Audit Division's report
CF No. 03-1041	Wilshire Area	Audit Division indicated that the C/O did not use anything other than the acceptable standards when making a credibility determination. The OIG does not concur in that the complainant was never interviewed, so no credibility determination was required.