

**LOS ANGELES POLICE COMMISSION**

***REVIEW OF AUDIT DIVISION'S  
CATEGORICAL USE OF FORCE  
INVESTIGATION REPORTS AUDIT***



Conducted by

**OFFICE OF THE INSPECTOR GENERAL**

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**EXECUTIVE SUMMARY**  
**Office of the Inspector General**  
**Review of Audit Division's Categorical Use of Force Investigation Reports Audit**

**OVERVIEW OF AUDIT DIVISION'S AUDIT**

According to the Audit, the purpose was to assess the Los Angeles Police Department's (Department) compliance with Consent Decree paragraphs 57, 80 (a)(b)(c)(e)(f) and (g), 82, 128, and 129. Audit Division evaluated the investigations of all three CUOF incidents that had been initiated by Force Investigation Division (FID) and completed by June 27, 2005. The purpose of the Audit was to evaluate whether the transfer of investigative responsibility to FID in August 2004 improved the quality of investigations, and to provide timely feedback to FID regarding their process. Since the population was so small, no conclusions were drawn regarding the Department's compliance with the Consent Decree.

The Table below summarizes the Audit's overall evaluation of each audit objective with the associated Consent Decree paragraphs.

<b>Objective No.</b>	<b>CD ¶</b>	<b>Objective Title</b>	<b>No. of Investigation Reports that Met the Standard for Each Objective</b>
1	57	Criminal Investigation of CUOFs	3/3
2	80a	Recorded Interviews	2/3
3	80b	Witnesses Interviewed at Convenient Sites and Times	3/3
4	80c	No Group Interviews	2/3
5	80e	On-Scene Supervisors Interviewed	2/3
6	80f (1)	Collection and Preservation Evidence	3/3
7	80f (2)	Canvass for Witnesses	3/3
8	80g	Identification of Inconsistencies in Statements	3/3
9	82	Collateral Misconduct Investigations Initiated when Appropriate	3/3
10	128(1)	Completeness of the Investigation	3/3
11	128(2a)	No Evidence of Canned Language	3/3
12	128(2b)	Identification of Inconsistent Information	3/3
13	128(2c)	Articulation of the Legal Basis for the CUOF	3/3
14	128(2d)	No Other Indicia That the Information is Not Authentic or Correct	3/3
15	128(3a)	Underlying Action was Appropriate and Legal	3/3
16	128(3b)	Underlying Action Conformed with Department Policy	3/3
17	128(4a)	Supervisory Oversight of the Incident	2/3
18	128(4b)	Post-Incident Supervisory Review	1/3
19	129(b)	Explanation for Missing Evidence	3/3
20	129(c)	Comparison of FID Report to Witness Statements	3/3
21	129(d)	Adequacy of the Investigation	1/3

## **OVERVIEW OF OIG'S REVIEW**

Pursuant to Consent Decree paragraph 135, the Office of the Inspector General (OIG) reviewed Audit Division's Categorical Use of Force Investigation Reports Audit. The review found that overall the Audit was conducted in a quality manner and the reported findings were properly supported and presented. However, the OIG noted an additional concern with one investigation's adequacy that was not reported by Audit Division. Specifically, for FID No. F087-04, the OIG believes more probing questions should have been asked of the shooting officer and his partner to fully address how the suspect's handgun (that the officers indicated was pointed at the shooting officer) ended up in the suspect's jacket pocket.<sup>1</sup> In this CUOF incident, a suspect was exiting a business that reported an "in-progress" armed robbery and turned toward the officers. Both the shooting officer and his partner indicated the suspect had a handgun in his right hand that was pointed at the shooting officer. The shooting officer fired three rounds and one hit the suspect in his left arm. The suspect took a few steps, stumbled to the ground and proned himself out with his arms perpendicular to his body. Due to on-going tactical concerns, the suspect was not searched immediately. The shooting officer later saw the handgun protruding from the suspect's jacket pocket and handed it to a supervisor who was also standing next to the suspect along with a guarding officer. Although the investigator appropriately covered the tactical issues surrounding this incident, the OIG believes the investigator should have asked the shooting officer where he thought the handgun had landed. Additionally, the OIG believes the investigator should have thoroughly questioned the partner officer regarding the timeframe, if any, the suspect was out of his sight when he stumbled to the ground and proned himself out. The shooting officer indicated the suspect was out of his sight for approximately two seconds. The investigation leaves the reader with outstanding questions regarding how and when the suspect managed to put the handgun into his jacket pocket after stumbling to the ground. This particular case was discussed with Audit Division and they were receptive to our raising this concern.

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<sup>1</sup> Audit Division also had an issue with this investigation's adequacy due to significant witnesses not being interviewed and there was no explanation in the investigation file.

**OFFICE OF THE INSPECTOR GENERAL  
REVIEW OF AUDIT DIVISION'S  
CATEGORICAL USE OF FORCE INVESTIGATION REPORTS AUDIT**

**PURPOSE**

Pursuant to Consent Decree paragraph 135, the Office of the Inspector General (OIG) reviewed Audit Division's Categorical Use of Force Investigation (CUOF) Reports Audit (Audit). The Audit was completed in the first quarter of Fiscal Year 2005/2006 and received by the Police Commission on September 30, 2005. As required, the OIG assessed the Audit's completeness, findings and quality.

**BACKGROUND ON AUDIT DIVISION'S AUDIT**

According to the Audit, the purpose was to assess the Los Angeles Police Department's (Department) compliance with Consent Decree paragraphs 57, 80 (a)(b)(c)(e)(f) and (g), 82, 128, and 129. In order to conduct their assessment, Audit Division evaluated the investigations of all three CUOF incidents that had been started by Force Investigation Division (FID) and completed by June 27, 2005. The Audit also evaluated whether the transfer of investigative responsibility to the newly formed FID in August 2004 improved the quality of investigations, and Audit Division provided timely feedback to FID regarding their process. Since the population was so small, no conclusions were drawn regarding the Department's compliance with the Consent Decree.<sup>1</sup>

Audit Division determined the most frequent issue found with the investigations was that significant witnesses (Department and non-Department) were identified but not interviewed and there was no explanation in the investigation file. The commanding officer of FID concurred with Audit Division's assessment, and has taken steps to prevent the issue from recurring in the future. Table No. 1 on the next page summarizes Audit Division's Reported Results by Objective Number along with the associated Consent Decree paragraphs.

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<sup>1</sup> Generally, there are more than one hundred CUOF incidents every year.

**TABLE NO. 1 – AUDIT DIVISION'S REPORTED RESULTS BY OBJECTIVE NUMBER**

<b>Objective No.</b>	<b>CD ¶</b>	<b>Objective Title</b>	<b>No. of Investigations that Met the Standard for Each Objective</b>
1	57	Criminal Investigation of CUOF Separate from Administrative	3/3
2	80a	Interviews Recorded	2/3
3	80b	Witnesses Interviewed at Convenient Sites and Times	3/3
4	80c	No Group Interviews	2/3
5	80e	On-Scene Supervisors Interviewed Regarding Their Conduct	2/3
6	80f (1)	Collection and Preservation of Appropriate Evidence	3/3
7	80f (2)	Canvassing the Scene to Locate Witnesses	3/3
8	80g	Identification of Inconsistencies in Statements	3/3
9	82	Collateral Misconduct Investigations Initiated when Appropriate	3/3
10	128(1)	Completeness of Information Contained in the Investigation	3/3
11	128(2a)	No Evidence of Canned Language	3/3
12	128(2b)	No Significant Inconsistent Information	3/3
13	128(2c)	Articulation of the Legal Basis for the CUOF	3/3
14	128(2d)	No Other Indicia That the Information is Not Authentic or Correct	3/3
15	128(3a)	Underlying Action was Appropriate and Legal (i.e., Detentions, Searches, Seizures, or Arrests)	3/3
16	128(3b)	Underlying Action Conformed with Department Policy (i.e., Uses of Force)	3/3
17	128(4a)	Supervisory Oversight of the Incident	2/3
18	128(4b)	Post-Incident Review of the Investigation by FID Management	1/3
19	129(b)	Explanation for Missing Evidence	3/3
20	129(c)	Comparison of Investigator's Summary with Witness Statements	3/3
21	129(d)	Adequacy of the Investigation	1/3

Greater detail of Audit Division's methodology and findings can be found in its Audit Report, dated September 29, 2005.

## **BACKGROUND ON THE OIG'S AUDIT SECTION**

As previously reported, the OIG hired a third Assistant Inspector General (AIG) and a Police Performance Auditor IV (PPA IV) in March and May 2005, respectively. Both the AIG and the PPA IV were assigned to Audit Division prior to accepting their positions with the OIG. However, neither the AIG nor the PPA IV were involved in the Audit during their previous assignment.

## **REVIEW METHODOLOGY**

The OIG assessed the completeness, findings, and quality of Audit Division's Audit, related audit plan, supporting work papers, and source documents. The OIG reviewed all three of FID's completed investigations that were audited by Audit Division, performing the same tests that Audit Division performed. Additionally, the OIG selected a random sample of 24 of the 100 taped interviews to confirm the accuracy of transcribed statements included in the investigation file.

On December 22, 2005, the OIG met with Audit Division management to discuss the results of this review. At that time, Audit Division management indicated general agreement with the findings in this report.

## **REVIEW RESULTS**

### **COMPLETENESS**

To assess the completeness of the CUOF Investigation Reports Audit, the OIG reviewed the Audit Report and supporting work papers to ensure that Consent Decree mandates were addressed and that all of the investigations fitting Audit Division's criterion were included in the Audit.

### **Consent Decree Mandates Addressed**

Pursuant to the Department's Annual Audit Plan, Audit Division completed an audit of CUOF investigations. Due to the complexity of CUOF investigations, the audit was completed in two phases. In Phase I, the CUOF Systems Audit evaluated compliance with Consent Decree paragraphs 55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83, and 147. That audit was reviewed by the OIG during the fourth quarter of fiscal year 2004/2005. In Phase II, the CUOF Investigation Reports Audit, currently being reviewed, evaluated the Department's adherence with Consent Decree paragraphs 57, 80 (a)(b)(c)(e)(f) and (g), 82, 128 and 129. Based on the OIG's assessment, the Audit adequately addressed the mandates associated with the aforementioned Consent Decree paragraphs.

### **Audit Population**

Audit Division correctly included in its audit population all three CUOF incidents that were initiated by FID and completed by June 27, 2005. There were no other CUOF incidents that met this criterion.

### **Conclusion**

Audit Division thoroughly identified and evaluated the three CUOF investigations initiated and completed by FID.

## **FINDINGS**

The OIG independently performed the same audit tests that Audit Division performed, and the OIG compared its findings to those reported by Audit Division. As a result, the OIG identified two additional issues that were not identified and/or reported by Audit Division.

### **Interviews Recorded (Consent Decree paragraph 80a)**

Audit Division identified one recorded interview (FID No. F084-04) that was not complete. The interview started mid-conversation and there was no explanation as to the reason why in the investigation file. The OIG also identified another recorded interview (FID No. F087-04), in which the transcribed statement indicated the investigator had a conversation with the shooting officer while off-tape. Specifically, in the transcribed statement, the investigator referred to a previous question he asked the officer about whether the officer had his baton. The OIG was unable to determine whether the investigator asked the question during the officer's "walk-through" or interview.<sup>2</sup>

### **Adequacy of the Investigation (Consent Decree paragraph 129(d))**

Audit Division determined two CUOF incidents (FID Nos. F084-04 and F087-04) had issues with the adequacy of the investigation due to significant witnesses not being interviewed and there was no explanation in the investigation file. For FID No. F087-04, the OIG also identified another concern regarding the investigation's adequacy. Specifically, the OIG believes more probing questions should have been asked of the shooting officer and his partner to fully address how the suspect's handgun that the officers indicated was pointed at the shooting officer ended up in the suspect's jacket pocket. In this CUOF incident, a suspect was exiting a business that reported an "in-progress" armed robbery and turned toward the officers. Both the shooting officer and his partner indicated the suspect had a handgun in his right hand that was pointed at the shooting officer. The shooting officer fired three rounds and one hit the suspect in his left arm. The suspect took a few steps, stumbled to the ground and proned himself out with his arms

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<sup>2</sup> Prior to conducting the interviews of the officers involved in the CUOF incident, FID conducts a separate "walk-through" with each officer to identify their placement during the CUOF incident which assists in the subsequent interview of the officers. The "walk-through" is not recorded.

perpendicular to his body. Due to on-going tactical concerns, the suspect was not searched immediately. The shooting officer later saw the handgun protruding from the suspect's jacket pocket and handed it to a supervisor who was also standing next to the suspect along with a guarding officer. Although the investigator appropriately covered the tactical issues surrounding this incident, the OIG believes the investigator should have asked the shooting officer where he thought the handgun had landed. Additionally, the OIG believes the investigator should have thoroughly questioned the partner officer regarding the timeframe, if any, the suspect was out of his sight when he stumbled to the ground and proned himself out. The shooting officer indicated the suspect was out of his sight for approximately two seconds. The investigation leaves the reader with outstanding questions regarding how and when the suspect managed to put the handgun into his jacket pocket after stumbling to the ground. Finally, the shooting officer's transcribed statement indicates he may have earlier patted down the suspect prior to locating his suspect's handgun, but because the investigator did not ask a follow-up question regarding this vague statement, the OIG is unable to determine if that was the case.

### **Conclusion**

The OIG determined that Audit Division's findings were well-supported and Audit Division thoroughly analyzed the CUOF investigations it audited. However, the OIG noted two additional issues mentioned above.

## **QUALITY**

The OIG evaluated both the Audit and Audit Report for quality.

### **Audit Quality**

The Audit was properly planned, supervised, and executed by Audit Division. The audit methodology and work papers allowed for proper and complete assessment of its Audit objectives.

### **Report Quality**

The Audit Report delineated the Audit's objectives, scope, methodology and the status of prior audit recommendations. Additionally, the Report used a fair and unbiased tone, and was concise. However, the OIG noted that the Report was somewhat ambiguous regarding the Audit population, in that it states Audit Division evaluated investigations completed by FID by June 27, 2005, when in fact it consisted of all investigations that were initiated by FID and completed by June 27, 2005.

### **Conclusion**

Overall, the OIG determined that the Audit and the Audit Report were of good quality.

### **OTHER RELATED MATTERS**

In reviewing the three CUOF investigations, the OIG noted the following concerns the Department should address:

- The FID investigation report is not dated. Force Investigation Division management should consider affixing a date to indicate when the report was approved.
- The review of transcribed and taped statements revealed some interviews had quite a few inaudible words or phrases. Force Investigation Division management should consider researching this issue to determine whether the problem is due to the quality of recording equipment used or whether investigators need to ask the interviewees to speak up, slow down, or repeat certain words or phrases.
- As mentioned in Audit Division's Report, CUOF investigation F084-04 had two interviews that were conducted using a non-certified translator. The OIG further noted that for one interview, this unidentified Spanish translator made errors and omissions with his translations.<sup>3</sup> The OIG does not believe the errors and omissions were critical to this particular investigation. However, it further confirms the reason Department-certified translators should be used in official investigations.

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<sup>3</sup> For example, the investigator asked, "Did they handcuff him?" The translation was, "Did he hit him with his hands?" The investigator also asked, "...In your opinion, was the man acting normal? Was he acting strangely?" The translation was, "Do you think the man was sick, do you think he was a bit crazy or sick? The witnesses answered, "...crazy guy because –because he made the people at the bus stop run also." The translation was, "...crazy guy because –because he was over the people in the street, over the corner, and the people was running too."