

LOS ANGELES POLICE COMMISSION

**REVIEW OF THE DEPARTMENT'S
NON-CATEGORICAL USE OF FORCE
INVESTIGATIONS AUDIT**



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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PURPOSE OF REVIEW

The Office of the Inspector General (OIG), pursuant to its Annual Audit and Review Plan, reviewed the Los Angeles Police Department's (Department) Non-Categorical Use of Force (NCUOF) Investigations Audit (Audit). This Audit was completed by Internal Audits and Inspections Division (IAID) in the first quarter of Fiscal Year 2010/2011 and approved by the Board of Police Commissioners on September 7, 2010. The OIG's review assessed the completeness, quality, and findings of the Inspection.

GENERAL BACKGROUND ON NCUOFs

According to Department Manual Section 4/245.05, a reportable NCUOF is defined as an incident in which an officer uses a less-lethal control device or physical force to compel a person to comply with an officer's direction, to overcome resistance of a subject during an arrest/detention, or to defend any individual from an aggressive action by the subject.¹ However, if this force results in the subject's death or admission to a medical facility, then the incident is reported and investigated as a Categorical Use of Force (CUOF).²

Investigations of NCUOFs are classified into two categories, Level I and II. Level I investigations involve one or more of the following: (1) an allegation of unauthorized force made by a public witness or subject; (2) a force option that results in a serious injury, such as a broken bone, dislocation, or an injury requiring sutures; (3) injuries to the subject that are inconsistent with the amount or type of force reported by the involved officer(s); and/or, (4) the accounts of the incident provided by the subject and/or witnesses of the use of force substantially conflict with the officers' accounts of the incident. All other NCUOF investigations are classified as Level II. Level I investigations, unlike Level II, require that all subject and public witness interviews be audio-recorded, unless impractical or the interviewee refuses.

IAID AUDIT METHODOLOGY AND RESULTS

This Audit identified a population of 192 NCUOF investigations that were initiated and closed from August 1, 2009, through March 31, 2010, an eight-month period. The Audit selected and tested 77 NCUOF Investigations, including 63 Level II and 14 Level I. The Audit tested compliance for 27 sub-objectives, with the reported results as follows:

¹ Less-lethal weapons, such as a bean bag shotgun or TASER, are not designed to kill or cause serious injury.

² Special Order No. 28, 2010, updated the definition of CUOFs as incidents involving the use of lethal force, such as intentional officer-involved shootings, unintentional firearm discharges, all carotid restraint control holds, all uses of force resulting in an injury requiring hospitalization, all unintentional (inadvertent or accidental) head strikes with an impact weapon involving serious bodily injury, all intentional head strikes, all other uses of force resulting in death, all deaths while the arrestee or detainee is in the custodial care of the LAPD, or any canine contact which results in hospitalization. All CUOFs are investigated by the Department's Force Investigation Division.

Review of Department’s Non-Categorical Use of Force Investigations Audit

| Obj. No. | Description of Audit Objective | No. of NCUOF Investigations & Compliance Rates - Prior Year Audit | | No. of NCUOF Investigations & Compliance Rates - This Audit | |
|----------|--|---|------|---|------|
| | | | | | |
| 1 | Completeness of Investigations | 80/81 | 100% | 77/77 | 100% |
| 2 | Authenticity | | | | |
| 2(a) | Canned Language / Inappropriate | 81/81 | 100% | 77/77 | 100% |
| 2(b) | Inconsistent Information | 81/81 | 100% | 77/77 | 100% |
| 2(c) | Articulation of Legal Basis | 81/81 | 100% | 77/77 | 100% |
| 2(d) | Other Indicia that Information is Not Authentic or Correct | 81/81 | 100% | 77/77 | 100% |
| 2(e) | Investigator’s Documentation of Inconsistencies | 81/81 | 100% | 77/77 | 100% |
| 3 | Underlying Action | 80/81 | 99% | 75/77 | 97% |
| 4 | Supervisory Oversight | | | | |
| 4(a) | At-Scene Supervision | 12/13 | 92% | 25/25 | 100% |
| 4(b) | Post Incident Supervisory Review | 78/81 | 96% | 69/77 | 90% |
| 4(c) | Watch Commander’s Insight | 72/81 | 89% | 70/77 | 91% |
| 4(d) | Approval of Reports by the Investigating Supervisor | 79/81 | 98% | 73/77 | 95% |
| 5 | Evaluation of Investigations | | | | |
| 5(a) | Analysis of Relevant Documents | 81/81 | 100% | 77/77 | 100% |
| 5(b) | Inclusion of All Witness Interviews | 77/81 | 95% | 75/77 | 97% |
| 5(c) | Required Information for Level I and II Cases | 81/81 | 100% | 77/77 | 100% |
| 6 | Management Oversight | | | | |
| 6(a) | Review of Investigation at Area/Division and Bureau Levels | 70/81 | 86% | 74/77 | 96% |
| 6(b) | Timeliness Review of the Investigation | 68/81 | 84% | 68/77 | 88% |
| 7 | Review of Appropriate Evidence and Documentation | 73/81 | 90% | 72/77 | 94% |
| 8 | Evaluation of Statements | 80/81 | 99% | 80/81 | 99% |
| 9 | Adequacy of the Investigation | | | | |
| 9(a) | Prohibiting Group Interviews | 79/81 | 98% | 77/77 | 100% |
| 9(b) | Interviewing At-Scene Supervisors | 13/13 | 100% | 25/25 | 100% |
| 9(c) | Collecting and Preserving Evidence | 34/35 | 100% | 17/17 | 100% |
| 9(d) | Canvassing the Scene to Locate Witnesses | 74/81 | 91% | 77/77 | 100% |
| 9(e) | Photographs of Department Employee’s Injuries | 56/81 | 69% | 48/52 | 92% |
| 9(f) | Proper Classification of Investigation | 80/81 | 99% | 77/77 | 100% |
| 10 | Reporting Allegations of Misconduct | 81/81 | 100% | 77/77 | 100% |
| 11 | Notifying the Department Without Delay | 81/81 | 100% | 76/77 | 99% |
| 12 | Adjudication/Findings of the Force Used | 81/81 | 100% | 77/77 | 100% |

OIG REVIEW METHODOLOGY

To assess the completeness, quality, and findings of IAID’s Audit, the OIG reviewed a sub-sample of 23 of the 77 NCUOF investigations in IAID’s sample. The sample size of 23 was calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 7%. The 23 NCUOF investigations included all 14 Level I investigations and a random sample of 9 Level II investigations. For these 23 investigations, the OIG’s performed the same tests that IAID performed for all 27 of their audit sub-objectives.

OIG REVIEW OBJECTIVES

The three main objectives of the OIG's review were to assess the Audit for completeness, findings, and quality, with the primary sub-objectives described below:

Completeness

- Determine if the Audit tested and reported compliance for the 27 audit sub-objectives pertaining to NCUOF incidents and the related investigations.
- Determine if the audit samples were selected from a complete Department-wide population of all NCUOF investigations initiated and closed from August 1, 2009, through March 31, 2010.

Quality

- Determine if there was evidence of supervision of the Audit.
- Determine if the Audit Report completely and accurately reported the Audit's purpose, methodology, objectives, results, detailed findings, and status of prior recommendations.
- Determine if appropriate sampling methodologies and testing questions were used.

Findings

- Determine if the reported findings correctly represented significant instances in which compliance was not achieved.
- Determine if there were any additional findings not reported that represented significant instances in which compliance was not achieved.

RESULTS

Completeness

The Audit tested and reported compliance for the 27 audit sub-objectives pertaining to NCUOF incidents and the related investigations. Also, the audit samples were selected from a complete Department-wide population of all NCUOF investigations initiated and closed from August 1, 2009, through March 31, 2010. Hence, the Audit met the OIG's standard for completeness.

Quality

There was evidence of supervision of the Audit. Also, the Audit Report completely and accurately reported the audit's purpose, methodology, objectives, results, detailed findings, and status of prior recommendations. Furthermore, appropriate testing questions were used. However, the OIG had the following issue with the Audit's sampling methodology.

Sampling Methodology Issue

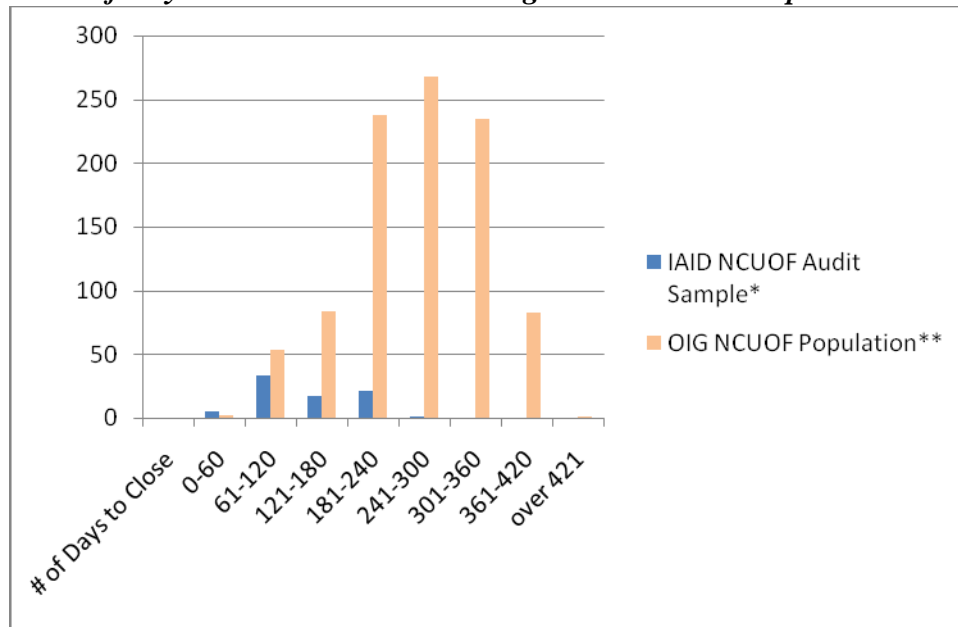
The IAID defined as its audit population the 192 NCUOF investigations *initiated and closed* from August 1, 2009, through March 31, 2010, an eight-month period. From this population, IAID selected a sample of 77 NCUOF investigations. The OIG analyzed these 77 investigations and calculated the number of days to *close* them as follows:

| | |
|--------|---------------------------------|
| Mean | 133 days |
| Median | 118 days |
| Mode | 61-120 days (33 investigations) |

As a comparison, the OIG defined as an alternative population the 964 NCUOF investigations *closed* from August 1, 2009, through March 31, 2010, the same eight-month period. The OIG analyzed these 964 investigations and calculated the number of days to *close* them as follows:

| | |
|--------|-----------------------------------|
| Mean | 260 days |
| Median | 267 days |
| Mode | 241-300 days (180 investigations) |

Graph - Number of Days to Close NCUOF Investigations – IAID Sample vs. OIG Population



As the tables and graph depict, the IAID sample of 77 was not representative of Department-wide NCUOFs. The 77 NCUOFs in the Audit sample closed much faster than average. The 964 NCUOFs in the OIG’s alternative population that took much longer to close (and were not tested in the audit) potentially could have been more complex investigations, had more review kickbacks, and/or had more non-compliance issues.

Response of IAID Management

In this Audit, IAID purposely limited to the scope to test only NCUOF investigations that opened after a revised use of force policy went into effect on July 14, 2009 (in this case, choosing August 1, 2009). Further, IAID tested only investigations that closed prior to March 31, 2010, in order to complete the Audit by June 30, 2010, in accordance with their approved Fiscal Year 2009/2010 Annual Audit and Inspection Plan. In future NCUOF Investigations Audits, IAID will use a different methodology to ensure that its sample is more representative of the population regarding how many days it takes to close the investigations.

Findings

The reported findings correctly represented significant instances in which compliance was not achieved. Further, there were no additional findings not reported which represented significant instances in which compliance was not achieved. Hence, the Audit met the OIG's standard for findings.

IAID MANAGEMENT'S RESPONSE

Management of IAID is in general agreement with the OIG's findings.

CONCLUSION

The OIG concluded that the Department's NCUOF Investigations Audit met the OIG's standard for completeness, findings, and most of the OIG's attributes for quality. This conclusion was supported by the OIG's detailed review of a sub-sample of 23 of the Audit's 77 NCUOF investigations, performing the same audit tests for the 27 audit sub-objectives. The OIG's only reportable issue was that the Audit's sample of 77 NCUOF investigations was not representative of the Department-wide population NCUOF investigations, as the sample investigations were closed on average twice as fast.