

LOS ANGELES POLICE COMMISSION
ANALYSIS OF THE DEPARTMENT'S
AUDIT RECOMMENDATION
STATUS REPORT
FIRST AND SECOND QUARTERS,
2004



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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November 1, 2004

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AUDIT RECOMMENDATION STATUS REPORT
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I. BACKGROUND

At the request of the Los Angeles Board of Police Commissioners (BOPC), the Office of the Inspector General (OIG) reviewed the Department's Audit Recommendation Status Report, First and Second Quarters, 2004 calendar year. The report was prepared by the Civil Rights Integrity Division (CRID)¹, Consent Decree Bureau and signed by the Chief of Police on June 1, 2004. The report was developed to keep the BOPC apprised of actions taken on recommendations relative to Consent Decree paragraph 154. Although the Department has prepared several reports, this is the first Audit Recommendation Status Report reviewed by the OIG.

The Audit Recommendation Status Report provides a list of recommendations that were made in several audits, including some that date back to July 2002, that have not yet been addressed by the Department. The recommendations made by the Department, and the OIG during its review of the following audits, were incorporated into this report:

- Complaint Form 1.28 Investigations Audit, dated March 31, 2004;
- Field Data Reports Completed by Gang Enforcement Detail Officers Audit, Third Quarter, 2003/2004, dated March 31, 2004;
- Gang Enforcement Detail Work Product Audit, Third Quarter, 2003/2004, dated March 30, 2004;
- Warrant Applications and Supporting Affidavits Audit, dated March 30, 2004;
- Arrest, Booking & Charging Audit, dated March 30, 2004;
- Non-Categorical Use of Force Reports Audit, Second Quarter, 2003/2004, dated December 30, 2003; and
- Gang Enforcement Detail Work Product Audit, Second Quarter, 2003/2004, dated December 26, 2003.

The Department did not previously track recommendations made by the OIG for audits conducted in compliance with Consent Decree paragraph 136. Commencing April 2004, CRID incorporated the OIG's recommendations into the Audit Recommendations Status Report. The report included the status of the recommendations made in the following audits:

- Complaint Form 1.28 Investigations Audit, dated December 18, 2003; and,
- Non-Categorical Use of Force Investigations Audit, dated March 23, 2004.

¹Civil Rights Integrity Division (CRID) began tracking recommendations in July 2002. According to CRID, prior to this period, Audit Division was tasked with this responsibility.

II. METHODOLOGY

In efforts to verify the accuracy of the Audit Recommendation Status Report, the OIG reviewed the report and identified all closed recommendations. If the status provided on a recommendation was inaccurate, follow-up telephonic and/or in-person interviews were conducted with personnel from CRID, Internal Affairs Group (IAG) and/or Planning and Research Division (PRD). In addition, Intradepartmental Correspondence sent to CRID by various Department entities responsible for the implementation of a recommendation was reviewed to determine if the status provided by the Department entity was accurately documented on the report. The OIG further reviewed, for confirmation, any directive (i.e., Special Orders, Administrative Orders, etc.) that was referenced to have addressed the recommendation(s).

Pending recommendations were not reviewed at this time, due to time constraints. However, the OIG will incorporate a review of the "Pending" recommendations during its review of the Audit Recommendation Status Report, Third Quarter, 2004 calendar year, which is expected to be completed by the end of October, 2004.

III. FINDINGS

General Overview

The OIG identified discrepancies with several of the recommendations showing a "Closed" status. Civil Rights Integrity Division closed out recommendations by citing a specific Department directive (e.g., Special Order) as having addressed the recommendation(s). The OIG found that in some instances the Special Order referenced did not address the recommendation; a specific recommendation was only partially addressed by the Special Order; and in some instances the Special Order referenced was incorrect (e.g. Special Order No. 12 instead of 13). In instances where the Special Order number was incorrectly referenced, CRID attributed this to a typographical error on their part. The OIG reviewed Special Order No. 13, and confirmed that the recommendation had been addressed. The OIG concurs with CRID's response.

Specific Audit and Corresponding Recommendation(s)

The following provides the OIG's findings as it relates to specific recommendations that have been closed out by CRID.

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Complaint Form 1.28 Investigations Audit, Fiscal Year 2003/04, March 31, 2004

Recommendation No. 03a

It is recommended that specific language be included in the written complaint investigation and included in the beginning of a taped interview, stating that a group interview was not conducted as stated in the IAG checklist.

Status Provided by CRID

“The information in the recommendation is currently being documented in either the body of the complaint investigation and/or the complaint investigation investigator’s notes. PSB provides training regarding documenting the requirements of paragraph 80 within personnel complaint investigations at commanding officer training sessions, watch commander schools, supervisor schools, and three day complaint investigator schools. Additionally, paragraph 80 will be addressed at CEDP 7.5 training. PSB is in the process of reviewing Special Order No. 1, 2003 and will formalize the process of documenting paragraph 80 information.”

OIG Finding

The OIG reviewed the Lesson Plan for CEDP 7.5 and found that it included training on the mandates of paragraph 80, specifically to document that a group interview was not conducted. The OIG also confirmed that PRD has a project (Project No. 04-0315) to revise Special Order No. 1, 2003, to incorporate the mandates of paragraph 80. Although training is being provided regarding the mandates of paragraph 80, the revisions to Special Order No. 1 to revise policy and procedure have not yet been implemented, therefore OIG believes the status of this recommendation should remain as “Pending.”

Recommendation No. 03b

It is recommended that specific language be included in the written complaint investigation, and included in the beginning of a taped interview, stating that the interviews were conducted at times convenient for the interviewee as stated in the IAG checklist. Correspondence was forwarded to IAG requesting they expand their “Consent Decree Mandates for Complaint Investigations Checklist” and distribute it Department wide.

Status Provided by CRID

“Professional Standards Bureau (PSB) has designed an “Investigative Checklist” that is currently in use by the Officer-In-Charge of each designated PSB investigative section. The issues associated with checklist content and possible Department wide

distribution are currently under consideration by PSB. The information in the recommendation is currently being documented in either the body of the complaint investigation and/or the complaint investigation investigator's notes. PSB provides training regarding documenting the requirement of paragraph 80 within personnel complaint investigations at commanding officer training sessions, watch commander schools, supervisor schools and three day complaint investigator schools. Additionally, paragraph 80 will be addressed a CEDP 7.5 training. Stating paragraph 80 information on tape is not feasible, as it would be unnecessarily duplicative. PSB is in the process of reviewing Special Order No. 1, 2003, and will formalize the process of documenting paragraph 80 information."

OIG Finding

The OIG confirmed that PSB personnel are currently utilizing the Investigative Checklist for their investigations. The OIG further reviewed the Lesson Plan for CEDP 7.5 and found that it included training on the mandates of paragraph 80, specifically to document if witnesses were interviewed at a convenient place and time. The OIG also confirmed that PRD does have a project (Project No. 04-0315) to revise Special Order No. 1, 2003, to incorporate the mandates of paragraph 80. Although training is being provided regarding the mandates of paragraph 80, the revisions to Special Order No. 1 to revise policy and procedure have not yet been implemented, therefore the OIG believes the status of this recommendation should remain as "Pending."

Recommendation No. 06

Professional Standards Bureau should develop a notification system for both IAG and the COC of pending five month due dates and monitor the receipt of the letters.

Status Provided by CRID

"Professional Standards Bureau currently prepares and distributes to each bureau a monthly report which contains all investigations that are approaching the five month due date. This report reminds Bureaus of the mandate to send correspondence to complaints whose cases have exceeded the five-month goal. An automated notification component is part of the Complaint Management System (CMS) scheduled for implementation in April 2004."

OIG Finding

The OIG found that in efforts to improve compliance with the Consent Decree, IAG developed a system entitled the *Four-Month Alert Report* to notify commanding officers of pending five month due dates. The report is used by commanding officers to send correspondence to complainants to inform them of the status of their

complaint. The OIG found however that IAG does not follow-up with commanding officers to ensure correspondence has been sent to the complainant. The OIG further found that CMS has not yet been implemented. The OIG believes that once CMS is implemented this issue will be resolved. Until CMS is implemented this recommendation should remain "Pending."

Audit of Non-Categorical Uses of Force (NCUOF) Investigations, March 24, 2004 – Conducted by the Office of the Inspector General

Recommendation No. 4

Department direct that all interviews involving Non-Categorical Use of Force with non-Department personnel, including the subject of the force, to be recorded.

Status Provided by CRID

"The recommendation was addressed in Special Order No. 12, 2004, Non-Categorical Use of Force Reporting – Revised.

OIG Finding

The OIG confirmed with CRID that the Audit Recommendation Status Report should have reflected that Special Order **13**, 2004, did address this specific recommendation, instead of Special Order No. 12, 2004. Civil Rights Integrity Division attributed this to a typographical error.

Recommendation No. 6

Department ensure that all tape recordings associated with Non-Categorical Use of Force investigations be booked at Scientific Investigation Division (SID). In addition, periodic routine audits should be conducted at the divisional level of the paraphrased statements and tape recordings to ensure accuracy. This audit should be placed on the regular audit schedule.

Note: *At the very least, any tapes including personal cassettes, with any interviews from a Non-Categorical Use of Force investigation, should be booked at SID to ensure they are available when needed. The OIG did have some success obtaining personal recordings, but at least one had been recorded over and one was lost.*

Status Provided by CRID

"This recommendation was addressed by Special Order No. 12, 2004, Non-Categorical Use of Force Reporting – Revised. Furthermore, the Department's Annual Audit Plan, Fiscal Year (FY) 2004/05, will evaluate compliance with

Department policy and procedure relative to tape recordings on personal tape recorders.”

OIG Findings

The OIG confirmed with CRID that the Audit Recommendation Status Report should have reflected Special Order No. 13, 2004, instead of Special Order No. 12, 2004. Civil Rights Integrity Division attributed this to a typographical error. The OIG notes that Special Order No. 13 mandates that the interviews for Level 1 NCUOF investigations be tape-recorded and transcribed. The Order does not require that interviews for Level 2 investigations be tape-recorded, however if they are, the interviews can be paraphrased. The accuracy of Level 2 recordings will be evaluated by the Department as indicated in the Department Annual Audit Plan, Fiscal Year 2004/2005. A separate audit will be conducted by the geographic Bureaus to evaluate compliance Department procedure relative to the booking of tapes with Scientific Investigation Division.

Non-Categorical Use Of Force (NCUOF) Reports Audit, Dated December 30, 2003

Recommendation No. 1OC

Office of Personnel Services should consider establishing guidelines delineating when the usage of boilerplate language and copying and pasting is appropriate in report writing, taking care to observe Consent Decree mandates by addressing risks associated with inappropriate usage.

Status provided by CRID

“Procedures for capturing witness statements have been incorporated into Special Order No. 13, 2004, *Non-Categorical Use of Force Reporting – Revised.*”

OIG Findings

A review of Special Order 13, 2004, revealed that the recommendation was not addressed by this Special Order. The Order does contain exemplar language for certain portions of the report (Section VI-A, 3, pg. 8). However, there are no comments or notes indicating that this language is to be used in limited circumstances nor does it specifically designate this language is approved “boilerplate” appropriate for “cutting and pasting” as stated in the recommendation. The OIG does not concur with CRID’s decision to close this recommendation because the Order does not fully address it.

CRID'S Response to OIG Finding

This issue was addressed with CRID who provided the following clarification on the status:

"In consultation with Audition Division staff, it was determined that the "cutting and pasting" and "boilerplate" language recommendations were made to address the very detailed and laborious documentation requirements for Non-categorical Use of Force reporting that existed at the time of the audit. Special Order 13, approved by the Police Commission in May 2004, completely rebuilt the reporting process greatly streamlining the documentation requirements. The "cutting and pasting" recommendation was considered in the drafting of Special Order 13, but deemed unnecessary based on the new protocols."

The OIG concurs with CRID's ultimate conclusion to close out the recommendation as it has been sufficiently addressed.

Inspector General Complaint Form 1.28 Investigations Audit, December 18, 2003

Recommendation IG No. 1

The Office of the Inspector General (OIG) concurs with Audit Division's recommendation made in their Interim Summary Report of Complaint Investigations, that the Department establish a method for documenting the requirements of paragraph 80 within the personnel complaint investigation format.

Status provided by CRID

"The information in the recommendation is currently being documented in either the body of the complaint investigation and/or the complaint investigation investigator's notes. PSB provides training regarding documenting the requirement of paragraph 80 within personnel complaint investigations at commanding officer training sessions, watch commander schools, supervisor schools and three day complaint investigator schools. Additionally, paragraph 80 will be addressed a CEDP 7.5 training."

OIG Finding

The OIG reviewed the Lesson Plan for CEDP 7.5 and found that it included training on the mandates of paragraph 80, specifically to document if witnesses were interviewed at a convenient place and time. The OIG also confirmed that PRD does have a project (Project No. 04-0315) to revise Special Order No. 1, 2003, to incorporate the mandates of paragraph 80. Although training is being provided regarding the mandates of paragraph 80, the revisions to Special Order No. 1 to revise

policy and procedure have not yet been implemented, therefore the OIG believes the status of this recommendation should remain as "Pending."

Use Of Force (Non-Categorical), Dated August 22, 2003

Recommendation No. 04

The Chief of Support Services (CSS), with input from Audit Division, should revise the Non-Categorical Use of Force (NCUOF) Face Sheet. Additionally, the Department should consider the incorporation of controls into the NCUOF Face Sheet that require the investigating supervisor to indicate an arrival and departure time at the scene of the incident. Controls should allow for the assessment of the supervisor's timely response to the scene in order to conduct an adequate investigation.

Status Provided by CRID

"Consideration was given to address this recommendation in Special Order No. 13, dated May 26, 2004, titled, "Non-Categorical Use of Force Reporting – Revised. However, this was not a Department or Consent Decree requirement and was not included."

OIG Finding

The OIG does not concur with CRID's decision to simply close out a recommendation because the Department or Consent Decree does not require it. The OIG contacted the Use of Force Review Section (UOFRS) to determine what consideration was given to this recommendation. The UOFRS indicated that the narrative description of what the investigating supervisor did at the scene to adequately investigate the incident by locating witnesses, preserving evidence, interviewing all involved officers, providing medical treatment, if necessary, etc. is sufficient. The OIG concurs, as does Audit Division, with the UOFRS that the actual time of arrival and departure of the supervisor does not need to be added to the NCUOF face sheet. Special Order No. 13, 2004, provides sufficient procedures to ensure that supervisors conduct an adequate investigation. Therefore, no further action is recommended by the Department at this time.

The OIG further notes that the NCUOF face sheet is currently being revised to incorporate some of the recommended changes.

CRID's Response to OIG Finding

"CRID gives careful consideration prior to closing any recommendation. The Chief of Support Services gave consideration to include the investigating supervisors

arrival and departure times in the NCUOF Report, and opted not to include the recommendation in the Special Order.”

Recommendation No. SUP2

The Department should consider revising the Non-Categorical Use of Force Face Sheet to render it more user friendly. For instance, the face sheet should be revised organizationally to remind Department personnel of reporting requirements where practicable. For example, placing the Verbal Warning section within the “Types of Force Used” section of the face sheet. This could assist in reminding the investigation supervisors to document the verbal warning, or the exigent circumstances that may have precluded the warning, each time an impact device, TASER, Bean Bag Shotgun, and/or less lethal munitions is deployed. In addition, controls should be incorporated that capture information such as the details of the investigating supervisor's arrival at the scene to conduct the investigation.

Status Provided by CRID

“Consideration was given to address this recommendation in Special Order No. 13, dated May 26, 2004, titled, “Non-Categorical Use of Force Reporting – Revised.” However, this was not a Department or Consent Decree requirement and was not included.”

OIG Finding

The OIG reviewed the response from the Chief of Support Services to CRID and found that the status provided by CRID is not totally accurate. Chief of Support Services indicated that the NCUOF face sheet is currently being revised to incorporate modifications to the warning box, which will ensure documentation of the verbal warning requirement prior to the use of an impact device. The status provided by CRID only applies to the arrival and departure time of an investigating supervisor to the scene of the incident. Further follow-up with the UOFRS revealed that consideration was given, however is not necessary (See OIG Findings for Recommendation 04 above).

CRID's Response to OIG Finding

The Department response to this recommendation should be revised to read:

“The Non-Categorical Use of Force Report was revised with the publication of Special Order 13 in May 2004. Requirements related to warnings given prior to the use of an impact device are captured on page 2 of that report.”

Recommendation SUP7

The Department with the assistance of legal counsel should consider the establishment of guidelines for the use of copying and pasting” within Non-Categorical Use of Force Reports, particularly in a relation to witness statements. To ensure that witness statements are independently obtained, the Department should consider requiring the documentation of routine details of witness interviews. Required details should include the identification of the person conducting the interview; the time, date, and location of the interview; as well as any additional, significant circumstances under which the interview was conducted that may contribute positively to the quality of the investigation.

Status Provided by CRID

“Procedures for capturing witness statements have been incorporated into Special Order No. 13 dated May 26, 2004, titled “Non-Categorical Use of Force Reporting – Revised.”

OIG Finding

A review of Special Order 13, 2004, indicated that the recommendation was not completely addressed by this Special Order. The Order does not contain guidelines for the use of copying and pasting. The OIG does not concur with CRID's decision to close this recommendation because it has not been fully addressed by the Order as stated.

CRID's Response to OIG Finding

See CRID's response under Recommendation No. 1OC.

IV. CONCLUSION

The OIG found, based on a review of the Audit Recommendation Status Report and follow-up with PSB, PRD, and Audit Division, that CRID closed out a number of recommendations that were only partially addressed. In some instances, CRID indicated that consideration was given to a specific recommendation, however because it was not Department policy or Consent Decree mandated it was closed out. The OIG found the status not to be totally accurate, and that the Department had in fact given consideration to implement specific recommendation(s) however recent changes to Department policy and procedure did not require implementation of the recommendation(s).

The OIG believes that the Audit Recommendation Status Report is beneficial to the Board of Police Commissioners. We trust that in future reports every effort will be made

to ensure that the information provided is accurate, complete, and that all recommendations are properly addressed by the Department prior to closure.

V. POST AUDIT MEETING WITH CRID

A post audit meeting was conducted with CRID on October 20 and October 26, 2004, to discuss the OIG's findings. Civil Rights Integrity Division concurred with some of the findings. In instances where CRID did not concur with the OIG, CRID's response is provided under the specific recommendation.