

LOS ANGELES POLICE COMMISSION

*Review of Audit Division's
Supplemental Non-Categorical Use of
Force Reports Audit
Fiscal Year 2006/2007*



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF AUDIT DIVISION'S
SUPPLEMENTAL NON-CATEGORICAL USE OF FORCE REPORTS AUDIT**

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree Paragraph 135, reviewed Audit Division's Supplemental Non-Categorical Use of Force (NCUOF) Reports Audit (Audit). The Audit was completed in the first quarter, Fiscal Year 2006/2007 and received by the OIG on October 2, 2006. The OIG assessed the Audit's completeness, findings, and quality.

BACKGROUND ON AUDIT DIVISION'S SUPPLEMENTAL AUDIT

Audit Division conducted this supplemental Audit because 17 NCUOF Reports were identified in the primary audit that had not yet been closed and consequently were unavailable for review before the issuance of their audit report. The results of the supplemental Audit were intended to provide a final assessment of the Department's compliance with the applicable Consent Decree paragraphs. The following table contains the overall compliance percentages for their combined audits (Departmental and GED results) as well as their primary and supplemental audits that were reported by Audit Division in their Audit Report.

COMPLIANCE PERCENTAGES REPORTED BY AUDIT DIVISION

Objective	CD¶	Description	Primary	Supplemental	Combined	
					Overall	GED
1	128	Evaluation of Completeness	100%	94%	99%	100%
2a	128	Evaluation for Canned Language	100%	100%	100%	100%
2b	128	Evaluation for Inconsistent Information	93%	82%	92%	85%
2c	128	Evaluation for Articulation of Legal Basis	100%	100%	100%	100%
2d	128	Evaluation for Information Not Authentic	100%	100%	100%	100%
3	128	Evaluation of Underlying Actions	99%	94%	98%	95%
4a	128	Evaluation of On-Scene Supervision	88%	83%	87%	92%
4b	128	Evaluation of Post-Incident Review	82%	65% ¹	81%	90%
5	68, 129a	Evaluation for Timeliness of the Investigation	100%	100%	100%	100%
6	69	Evaluation for Timeliness of the Review	98%	59% ²	94%	90%
7	129b	Evaluation for Completeness of Evidence	95%	100%	96%	90%
8	129c	Evaluation of Investigators' Representation of Statements	79%	100%	83%	83%
9a	80c	Prohibiting Group Interviews	99%	100%	99%	100%
9b	80e	Interviewing All At-Scene Supervisors	91%	100%	92%	100%
9c	80f	Canvassing Scene, Interviewing Witnesses, Collecting and Preserving Evidence	95%	100%	96%	95%
9d	129c	Tape Record All Level I Interviews	92%	50% ³	87%	NA ⁴
9e	82	Reporting Allegations of Misconduct	100%	100%	100%	100%
9f	129d	Other Investigative Issues ⁵	98%	94%	98%	95%

¹ Only 11 of the 17 investigations met the standard for this objective, with noted deficiencies such as the Investigating Supervisor instead of Watch Commander signing related reports and written evaluations not being provided by the Watch Commander when a supervisor was present, participated in or provided direction during the UOF incident.

² Audit Division identified this concern as a significant issue in their audit, which related to delays in the commanding officer's review of the investigation within 14 days of the incident.

³ There were only two (both Non-GED) of the 17 supplemental NCUOF investigations that were Level I investigations and only one met the standard for this objective.

⁴ As with the primary Audit, Audit Division's selection criteria for the Supplemental Audit did not include a sample of GED Level I investigations and consequently they were unable to make a determination of compliance with Consent Decree Paragraph 129(c) (Tape Record all Level I Interviews) as it pertains to GED, which generally requires tape-recording of suspects and witnesses.

With respect to Consent Decree Paragraph 129(d), Audit Division did not report findings related to the lack of "consistent statements" verbiage in the NCUOF investigations. The OIG reported on this concern in our previous review of Audit Division's primary NCUOF Audit (dated October 5, 2006). According to Special Order No, 13, 2004 this verbiage is required as most NCUOF investigations do not include summarized statements of subject/witness statements. Thus, because these findings were not included, the OIG does not believe that the compliance percentage for Consent Decree Paragraph 129(d) was accurate.

Greater detail on Audit Division's methodology and findings can be found in their Audit Report.

REVIEW METHODOLOGY

The OIG assessed the completeness, findings, and quality of Audit Division's supplemental Audit by reviewing the final Audit Report, Audit Work Plan, and Audit Division's Access database, which was used to compile and analyze their audit results.⁶ The OIG randomly selected a sample of ten NCUOF investigations, which included eight Non-GED investigations and two GED investigations.

On December 27, 2006, the OIG met with Audit Division management to discuss the results of this review. At that time, Audit Division management indicated general agreement with all of the review's findings.

FOCUS POINTS

The OIG commends Audit Division for identifying some significant issues in their Audit related to delays in the commanding officer's review of the investigation and the completion/closure of NCUOF investigations, as described below:

- Audit Division reported a 59 percent compliance rate regarding Consent Decree Paragraph 69 (Evaluation for Timeliness of the Review).⁷ Audit Division reported that the electronic version of the NCUOF Report provides two fields for capturing the Area commanding officer's review of the investigation. Since one date is manually input (the "Case Detail" Screen) and can be overridden and the other date is system generated (the "Fly Sheet") after Area management initially opens the electronic file, Audit Division chose the latter date to evaluate the Consent Decree Paragraph. Due to the low compliance percentage, Audit Division recommended that TEAMS II Bureau research the feasibility of adding a comment field to explain date inconsistencies when they occur.

⁵ Compliance percentages stated for Consent Decree Paragraph 129(d) (Other Investigative Issues) may be significantly less as findings related to the lack of "consistent statements" verbiage were not reported by Audit Division.

⁶ The OIG's review of supporting workpapers was based on a randomly selected one-tail sample size calculation with a 95 percent confidence level, an expected error rate of six percent, and a plus precision of ten percent, with samples selected from the Non-GED and the GED populations.

⁷ The Commanding Officer's review is mandated to be completed within 14 days of the incident, unless an investigation deficiency is detected.

- Audit Division identified that there were no system controls to track the progress of an investigation and, therefore, an investigation may become unnecessarily aged. Audit Division reported the results of their analysis, which indicated that 13 of the 17 NCUOF Reports in their supplemental Audit sample averaged 315 days from the creation of the investigation to its final review and approval by the Use of Force Review Division (UOFRD). Audit Division recommended that a tracking system be established for investigations, which could notify the appropriate individuals of pending action items. Upon successful implementation of this recommendation by TEAMS II Development Bureau, it is expected that there will be improvements in the timely completion/closure of NCUOF investigations.

REVIEW RESULTS

COMPLETENESS

To assess the supplemental Audit's completeness, the OIG reviewed Audit Division's Audit Report and supporting workpapers to ensure all applicable Consent Decree mandates were addressed and Audit Division selected a sample from a complete population.

Per the Department's Annual Audit Plan, Audit Division's Non-Categorical Use of Force Reports Audit was to assess Consent Decree paragraphs 65, 68, 69, 80(c, e, and f), 82, 128, and 129, and 131(a, c, and e). Based on the OIG's review, compliance percentages were presented for all but Paragraph 65.⁸ Although Audit Division's Audit Report included a brief description of the limited testwork that they were able to perform to address this Paragraph, they were unable to provide the related compliance percentages. The OIG acknowledges the fact that in the past, the Federal Monitor and Consent Decree Work Group determined that the testwork that would be required to test for compliance with this Paragraph would entail resources not available to Audit Division. However, since this Paragraph was included in the Annual Audit Plan and mentioned at the beginning of their Audit Report, Audit Division's should have clearly reported that they were unable to provide compliance percentages for this Consent Decree Paragraph.

Regarding the completeness of the population, the OIG determined that Audit Division's population included all of the 17 NCUOF Reports that were unavailable for review during their primary audit.

⁸ Consent Decree Paragraph 65 states, "The Department shall continue to require officers to report to the LAPD without delay the officer's own use of force (on the use of force form as revised pursuant to Paragraph 66)."

FINDINGS

The OIG performed testwork in order to provide assurance that Audit Division adequately identified and reported all relevant issues. Based on the OIG's review, overall, Audit Division presented the audit findings in a logical manner and the narrative of the report supported all findings. Additionally, Audit Division generally identified and reported concerns relevant to the ongoing operations of the Department. However, the following additional issues were identified by the OIG that Audit Division should have reported.

Objective No. 2b: Evaluation for Inconsistent Information (Consent Decree Paragraph 128)

For one investigation (NCUOF No. 2001611), a witness to this use of force indicated in his tape-recorded interview that the suspect was not resisting, which is inconsistent with the Arrest Report. The Arrest Report indicated that the suspect physically resisted while the officer attempted to handcuff him. The electronic NCUOF Report incorrectly indicated that this witness' statement was consistent with the officer's statement and related report(s).

Objective No. 9f: Other Investigative Issues (Consent Decree Paragraph 129d)

For one investigation (NCUOF No. 2002078), hospital admission records for the suspect were not obtained by the Investigating Supervisor, which raised a question as to whether the incident was investigated adequately. The use of force occurred as the suspect was forcibly being fingerprinted while in custody at the 77th Street Area Jail. After the suspect was fingerprinted, the suspect indicated that he was injured.⁹ Several times during the incident the suspect screamed that he was in pain and that his wrist was broken. However, the subject was taken to the LAPD jail dispensary and a physician cleared the suspect for booking. A use of force investigation was initiated two days later when, during a transfer in custody, the suspect stated to Los Angeles Sheriff's Department (LASD) deputies that LAPD Jail personnel broke his wrist when he was being fingerprinted. The suspect was transported to Los Angeles County Medical Center (LACMC) for treatment where the initial medical evaluation indicated that the suspect was experiencing "right wrist pain from an altercation with officers." The Investigating Supervisor indicated that he obtained information from LASD that the suspect was admitted overnight to LACMC to relieve the LASD deputies, not because of his injuries. Force Investigation Division advised the Investigating Supervisor to investigate the incident as a NCUOF Level I; however, it appears that this decision was based on the admission reason provided by the LASD deputies. An Authorization to Release Medical Records was obtained from the suspect authorizing the Department to obtain medical records relating to the injured wrist; however, no admission record was included in the investigation file.¹⁰ Special Order

⁹ The Investigating Supervisor indicates that that the suspect's injuries may have resulted from a prior injury. The suspect indicated on tape that he was not injured before he was fingerprinted.

¹⁰ Personnel at LACMC told the Investigating Supervisor that it would take 10 to 15 working days to retrieve the records.

No. 27, 2001 states that a CUOF incident is defined as, among others, a use of force incident resulting in an injury requiring hospitalization. As such, the OIG believes that it would have been prudent for the Department to obtain the admission record for the suspect in order to determine definitively the reason for the suspect's hospital admission and, accordingly, the appropriate manner in which to investigate the incident.

QUALITY

To assess the Audit quality, the OIG evaluated the quality of both the Audit and the Audit Report.

Based on the OIG's review, the Audit was properly planned, performed and supervised. The Audit Work Plan, which documented their methodology, indicated that Audit Division addressed all of the required Consent Decree mandates in the planning of their Audit. In addition, the Audit Report properly delineated the Audit's objectives, scope, methodology, findings and recommendations. Additionally, the Audit Report was issued in a timely manner (within the first quarter, Fiscal Year 2006/2007 as specified in their primary Audit Report) and used a fair and unbiased tone. Furthermore, the Audit Report presented its assessment of the Audit's objectives in a clear and concise manner.

However, in reviewing Audit Division's testing workpaper (matrix), it was noted that it does not have a question to evaluate whether the interviewer's tone during the interview was neutral and professional, whether necessary and logical questions were asked during the interview, and, if the interviewee was an employee, whether the questions were open (i.e., not leading or suggestive of the right answer). Although these questions do not specifically relate to a Consent Decree paragraph, good investigative practices dictate that they should be used in the evaluation of each interview. For future audits in which there are taped-recorded interviews to be evaluated, the OIG suggests that Audit Division develop a separate tape review matrix for auditors to focus on evaluating the quality and the adequacy of each interview.

GLOBAL CONCERNS

Although not related to the OIG's assessment of the Audit's quality, the following additional concerns were noted.

Officer's TEAMS II Tactics Record Ambiguous

Previously under TEAMS 1.5, for NCUOF incidents in which the tactics used by an officer were adjudicated with a disposition of "Training," the Officer's TEAMS 1.5 record indicated Tactics - "Training." Currently under TEAMS II, the same recommendation would be reflected in an officer's TEAMS II record as Findings - "Unknown" and Action - "Non-Disciplinary Action." However, as information regarding Findings is not relevant for a "training" disposition, the OIG believes that more appropriate terminology (e.g., "Not Applicable") should be used. Furthermore, the OIG believes "Non-Disciplinary Action" for an action type is too vague and

should be replaced with a more specific action such as "Training" or "Comment Card," whichever is applicable. The OIG suggests that the Department consider these suggestions when making future enhancements to TEAMS II.

Booking Approval Forms that Lack an Authorization for a Strip Search

For one investigation (NCUOF No. 2001700), the Booking Approval Form indicated that the suspect was strip searched (with negative results); however, the form lacked the required Watch Commander's signature authorizing the search.¹¹ Audit Division indicated they did not believe they needed to report this and other similar findings in the NCUOF Audit because they were "out of scope" and more appropriate for evaluation in their Arrest, Booking, and Charging Audit. However, given that there was no documentation to indicate a supervisor approved the strip search, this type of finding should be reported, possibly in an additional matter(s) section of the report.

CONCLUSION

Overall, the OIG determined that the supplemental Audit was properly planned and conducted, and the Audit results were reported in a quality manner. Although the OIG identified certain findings in addition to those reported by Audit Division, the OIG does not believe that the overall reported compliance percentages would have been significantly impacted, with the exception of Consent Decree Paragraph 129(d) (Other Investigative Issues). With respect to Consent Decree Paragraph 129(d), Audit Division did not report findings related to the lack of "consistent statements" verbiage in the NCUOF investigations. The OIG reported on this concern in our previous review of Audit Division's primary NCUOF Audit (dated October 5, 2006). According to Special Order No, 13, 2004 this verbiage is required as most NCUOF investigations do not include summarized statements of subject/witness statements. Thus, because these findings were not included, the OIG does not believe that the compliance percentage for Consent Decree Paragraph 129(d) was accurate.

¹¹ Special Order No. 21, 2005 requires that the Watch Commander document their approval on the Booking Approval Form prior to the search.