

LOS ANGELES POLICE COMMISSION

***REVIEW OF AUDIT DIVISION'S
CATEGORICAL USE OF FORCE
SYSTEMS AUDIT
(Fiscal Year 2004/2005)***



Conducted by

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

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EXECUTIVE SUMMARY
Office of the Inspector General
Review of Audit Division’s Categorical Use of Force Systems Audit

OVERVIEW OF AUDIT DIVISION’S AUDIT

The Consent Decree (CD) defines Categorical Uses of Force (CUOF) as the use of deadly force (e.g., officer involved shootings), upper body control holds, uses of force resulting in hospitalization or death, head strikes with an impact weapon, deaths while the arrestee or detainee is in custodial care of the Department, and canine bites resulting in hospitalization. At the Department’s discretion, other incidents can also be classified as a CUOF, especially when significant risk management issues are present.¹

When a CUOF incident occurs, the involved officer must, without delay, notify his/her supervisor. The supervisor in the division of occurrence makes one phone call to the Department’s Command Post (DCP), and the DCP notifies the Inspector General (IG), the District Attorney, Force Investigation Division (FID), and the Chief of Police (COP).² Force Investigation Division and the IG “roll out” to the scene of CUOF incidents and, upon arrival, FID begins its investigation of the incident.

Audit Division’s (AD) CUOF Systems Audit for Fiscal Year (FY) 2004/2005 assessed the Department’s compliance with 13 CD paragraphs (¶s) pertaining to CUOF, and the table below summarizes AD’s reported compliance percentages.³

CD ¶	SUBJECT	AD’S REPORTED COMPLIANCE PERCENTAGE
55	a. FID Responsible for CUOF Investigations	100
55	b. FID Investigators Must Be Supervisors	100
55	c. FID Cannot Have Line Supervision over Bureaus	100
55	d. FID Investigators to be Trained as per CD ¶ 80	100
56	a. FID to Attend All CUOF Incidents	100
56	b. Immediate Notification to the COP, FID and OIG	91.3
56	c. Command of the Crime Scene by FID	100
58	Timely Notification to the District Attorney	100
59	Cooperation with the District Attorney at the Scene of the Incident	100
61	Separation of Officers	100
62	a. Review of Supervisory Response within Seven Days	95.7
62	b. Supervisory Conduct Considered for Annual Performance Evaluation	95.5
63	Psychological Evaluation of Officers Involved in Deadly Force	97.3
64	a. Officer History Considered for Disciplinary Action	85.7
64	b. Officer History Considered for Non-Disciplinary Action	100
65	Officers to Immediately Report UOF	100
67	CUOF Reports to Police Commission within 60 days of Statute	58.1
69	Use of Force Review Board to Review All CUOF Incidents	100
83	Investigators to Have Access to TEAMS Information	100
147	Timely Notification to the IG	95.7

¹ Department policy also identifies accidental discharges and animal shootings as CUOFs, but AD did not evaluate these types of incidents in its audit for various reasons.

² The CD requires the Department to notify the District Attorney whenever any officer shoots and injures any person or when an individual dies while in the custody or control of an “LAPD officer or the LAPD, and a use of force by a peace officer may be a proximate cause of death.”

³ The CD paragraphs evaluated by AD had multiple mandates, so AD created subparagraphs for certain paragraphs to assess the Department’s compliance.

OVERVIEW OF OIG'S REVIEW

Pursuant to CD ¶ 135, the Office of the Inspector General (OIG) reviewed the completeness, quality and findings of AD's audit. The review found that overall the audit was complete and conducted in a quality manner, and that AD's reported findings were generally properly supported and presented.

That being said, the OIG identified a significant issue surrounding AD's evaluation of the notification process (CD ¶ 56) that warrants comment. That CD paragraph requires the Department to "immediately" notify the OIG, FID, and the COP when a CUOF incident occurs. Audit Division assessed the Department's compliance with this paragraph by evaluating the lapse of time it took the Division of occurrence to notify the DCP, and the DCP to notify the OIG, FID, and the COP. Specifically, AD used a 15-minute criteria for DCP notifications to the above entities; however, in evaluating the timeliness of Division of occurrence notifications to the DCP, AD only held "unjustified notification delays over 60 minutes" out of compliance with the mandates of the paragraph. The OIG has the following concerns with AD's evaluation:

- For the prior AD CUOF Systems Audit (FY 2003/2004), AD evaluated the timeliness of Division of occurrence notifications to the DCP using a non-compliance criteria of "unjustified notification delays over 20 minutes," and this 40-minute increase since the last audit is not mentioned and/or explained in AD's report; and,
- Given that the IG, FID, COP and District Attorney are notified subsequent to the initial notification to the DCP, a non-compliance criteria of "unjustified notification delays over 60 minutes" appears too lenient and directly impacts response times for the above entities.⁴

If AD had used a non-compliance criteria of "unjustified notification delays over 20 minutes," the compliance percentage would have decreased from 91.3 percent (21/23) to 78.2 percent (18/23), in that three additional unjustified notification delays between 20 and 60 minutes, identified by AD, would have been included in the calculation.⁵

When questioned about the aforementioned 40-minute criteria change since the last audit, AD management stated that it would be unreasonable to hold the Department to an arbitrary 20-minute standard, given that there is no Department policy to define "immediate" notification. The OIG disagrees with this rationale and believes a 20-minute criteria is reasonable to evaluate the Department's compliance with this paragraph.

⁴ Audit Division reported that, on average, FID arrived at the scene one hour and 36 minutes after being notified by the DCP.

⁵ Audit Division identified a total of 14 CUOF incidents in which the Division notifications to the DCP occurred between 20 minutes and 60 minutes, further reporting that the delays for 11 incidents were justified. The OIG believes documents for at least four incidents (of the 11) contained insufficient evidence to make that conclusion.

**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF AUDIT DIVISION'S
CATEGORICAL USE OF FORCE SYSTEMS AUDIT (FISCAL YEAR 2004/2005)**

PURPOSE

Pursuant to Consent Decree (CD) Paragraph (¶) 135, the Office of Inspector General (OIG) reviewed Audit Division's (AD's) Categorical Use of Force (CUOF) Systems Audit. This audit was completed in the third quarter of Fiscal Year (FY) 2004/2005 and received by the OIG on March 30, 2005. The OIG assessed the audit's completeness, findings and quality.

BACKGROUND ON AD'S AUDIT

The CD defines a CUOF as the use of deadly force (e.g., officer involved shootings), upper body control holds, uses of force resulting in hospitalization or death, head strikes with an impact weapon, deaths while the arrestee or detainee is in custodial care of the Department, and canine bites resulting in hospitalization. At the Department's discretion, other incidents can also be classified as a CUOF, especially when significant risk management issues are present.¹

When a CUOF incident occurs, the involved officer must, without delay, notify his/her supervisor. The supervisor in the division of occurrence makes one phone call to the Department's Command Post (DCP), and the DCP notifies the Inspector General (IG), the District Attorney, Force Investigation Division (FID), and the Chief of Police (COP).² Force Investigation Division and the IG "roll out" to the scene of CUOF incidents and upon arrival, FID begins its investigation of the incident.

Audit Division's CUOF Systems Audit assessed the Department's compliance with 13 CD paragraphs pertaining to CUOF. The table below summarizes the compliance percentages reported by AD, the populations audited by AD, and the related sample sizes reviewed by OIG.³

CD ¶	SUBJECT	AD'S REPORTED COMPLIANCE PERCENTAGE	DEFINITION OF POPULATION	AD'S POPULATION SIZE	OIG'S SAMPLE SIZE
55	a. FID Responsible for CUOF Investigations	100	Investigators Assigned to FID as of 10/17/04	N/A	N/A
55	b. Investigators Must Be Supervisors	100	Investigators Assigned to FID as of 10/17/04	N/A	N/A
55	c. FID Cannot Have Line Supervision over Bureaus	100	Investigators Assigned to FID as of 10/17/04	N/A	N/A
55	d. FID Investigators to be Trained as per CD ¶ 80	100	Investigators Assigned to FID as of 10/17/04	N/A	N/A

¹ Department policy also identifies accidental discharges and animal shootings as CUOFs, but AD did not evaluate these types of incidents in its audit for various reasons.

² The CD requires the Department to notify the District Attorney whenever any officer shoots and injures any person or when an individual dies while in the custody or control of an "LAPD officer or the LAPD, and a use of force by a peace officer may be a proximate cause of death."

³ The CD paragraphs evaluated by AD had multiple mandates and, as such, AD created subparagraphs for certain paragraphs to assess the Department's compliance.

Table Continued

CD ¶	SUBJECT	AD'S REPORTED COMPLIANCE PERCENTAGE	DEFINITION OF POPULATION	AD'S POPULATION SIZE	OIG'S SAMPLE
56	a. FID to Attend All CUOF Incidents	100	All CUOF incidents from 10/1/04 to 11/30/04	23	14
56	b. Immediate Notification to the COP, FID and IG	91.3	All CUOF incidents from 10/1/04 to 11/30/04	23	14
56	c. Command of the Crime Scene by FID	100	All CUOF incidents from 10/1/04 to 11/30/04	23	14
58	Timely Notification to the District Attorney	100	All CUOF incidents from 10/1/04 to 11/30/04	23	14
59	Cooperation with District Attorney at Incident Scene	100	All CUOF incidents from 10/1/04 to 11/30/04	23	14
61	Separation of Officers	100	All CUOF incidents from 10/1/04 to 11/30/04	23	14
62	a. Review of Supervisory Response within 7 Days	95.7	All CUOF incidents from 10/1/04 to 11/30/04	23	14
62	b. Supervisory Conduct Considered for Annual Performance Evaluation	95.5	All CUOF incidents from 10/1/04 to 11/30/04	23	14
63	Psychological Evaluation of Officers Involved in Deadly Force	97.3	All CUOF incidents from 10/1/04 to 11/30/04	23	14
64	a. Officer History Considered for Disciplinary Action	85.7	All out-of-policy CUOF incidents initiated & closed in 2004	7	6
64	b. Officer History Considered for Non-Disciplinary Action	100	All incidents presented to Use of Force Review Board from 10/1/04 to 11/30/04	14	10
65	Officers to Immediately Report UOF	100	All CUOF incidents from 10/1/04 to 11/30/04	23	14
67	CUOF Reports to Police Commission within 60 days of Statute	58.1	All CUOF incidents from 1/1/04 to 3/31/04	31	16
69	Use of Force Review Board to Review All CUOF Incidents	100	All incidents presented to Use of Force Review Board from 10/1/04 to 11/30/04	14	10
83	Investigators to Have Access to TEAMS Information	100	Investigators Assigned to FID as of 10/17/04	N/A	N/A
147	Timely Notification to the IG	95.7	All CUOF incidents from 10/1/04 to 11/30/04	23	14

Greater detail on AD's methodology and findings can be found in its CUOF Systems Audit Report.

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 AD prior to accepting their positions with the OIG. Normally,

the AIG and the PPA IV would refrain from conducting reviews of AD audits for a certain period of time; however, as the CD requires the OIG to conduct these reviews, that luxury is not available. Nonetheless, the AIG and PPA IV have refrained from conducting or supervising any reviews of AD audits that they actively participated on while assigned to AD.⁴

PRIOR RECOMMENDATIONS

The OIG's review of AD's CUOF Interim Audit for FY 2003/2004 did not result in any recommendations.

REVIEW METHODOLOGY

The OIG assessed the completeness, findings, and quality of AD's CUOF Systems Audit for FY 2004/2005 by reviewing the audit report, related audit plan, supporting work papers and source documents.⁵

On June 28, 2005, the OIG met with AD management to discuss the results of this review. At that time, AD management indicated general agreement with this review's findings, except for the issue pertaining to the criteria used by AD for assessing the timeliness of CUOF incident notification to the DCP (see page 6).

FOCUS POINT

The OIG noted that the most significant issue in AD's report was the compliance percentage of 58.1% for CD ¶ 67 (CUOF Reports to Police Commission within 60 days of Statute), whereby 13 of the 31 CUOF incidents reviewed by AD were submitted late to the Police Commission, by an average of 29 days late. Per AD, these late submissions were due to a backlog of incident investigations transferred from Critical Incident Investigation Division (CIID) to FID, which was established August 22, 2004. Audit Division expects to find an improvement in the Department's compliance with this paragraph in their FY 2005/2006 CUOF Systems Audit, which will evaluate only CUOF investigative reports that were initiated and completed by FID.

⁴ Neither the AIG nor the PPA IV were involved in this audit while they were assigned to AD.

⁵ The OIG's review of supporting work papers 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 seven percent.

REVIEW RESULTS

COMPLETENESS

To assess the audit's completeness, the OIG reviewed AD's report and supporting work papers to ensure CD mandates were addressed and that the audit used complete populations.

Consent Decree Mandates Addressed

Per the Department's Annual Audit Plan (AAP) Status Report – Second Quarter FY 2004/2005, AD's CUOF Systems Audit was to meet the audit requirements specified in CD ¶ 129 and assess CD ¶s 55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83 and 147 (see Table 1).

The OIG determined the audit sufficiently met the audit requirements specified in CD ¶ 129 and addressed the aforementioned CD paragraphs.

Identification of a Complete Population

Audit Division used five different populations to evaluate the Department's compliance with the above listed CD paragraphs (see Table 1). The OIG determined that these populations were complete based on the criteria set by AD.

Conclusion

Overall, the OIG determined that the audit addressed applicable CD mandates. Additionally, the populations evaluated by AD were complete.

FINDINGS

To assess the audit's findings, the OIG reviewed AD's supporting work papers and source documents (see Table 1 for OIG sample sizes). Additionally, the OIG reviewed AD's report to ensure the findings were properly presented.

Support for Findings

The OIG generally found that AD's reported findings were supported and that all applicable findings were reported; however, the OIG identified the following issues:

- Regarding AD's analysis of CD ¶ 61 (Separation of Officers), a witness officer (a Detective II) who heard shots in incident F101-04 (OIS No-Hit) was assigned the responsibility to transport an involved shooting officer back to the station. Therefore, it appears that the witness officer and involved officer were not separated as required. This

witness officer was not considered by AD in their "separation of officers" analysis.⁶ By including these two unseparated officers as exceptions, the reported compliance percentage for CD ¶ 61 would have decreased from 100 percent to 97.1 percent.⁷

- For incident F107-04, Table No. 4 in AD's report indicates that the COP, IG and FID were all notified within one minute of the DCP (at approximately 1956 hours). However, the OIG believes that the notification timing can not be accurately determined, as different source documents conflict as to whether the DCP was first notified about the incident details at 1925 hours or 1955 hours. The nature and reasons for this 30-minute gap are not clearly articulated in the supporting documents.

Presentation of Findings

Audit Division presented the audit's findings in a logical manner, organized by CD paragraph, and the narrative of the report supported all calculations.

Conclusion

Overall, AD's supporting work papers adequately supported the audit's findings, and the findings were properly presented in the report. Although some issues were identified with the support for findings, these issues did not rise to the level of a significant deficiency.

QUALITY

The OIG evaluated AD's audit and the report for quality.

Audit Quality

Overall, the audit was properly supervised and planned, in that the audit's methodology allowed for proper assessments of applicable CD paragraphs. However, the OIG noted the following issues related to the audit's methodology:

- In assessing CD ¶ 69 (Use of Force Review Board [UFRB] to Review All CUOF Incidents), AD reviewed all 14 CUOF incidents *known* to have been presented to the UFRB from October 1, 2004 to November 30, 2004. The OIG would have preferred that AD had reviewed all CUOF incidents that were known to have *occurred* during some time frame, and then determined whether they were eventually presented to the UFRB.

⁶ The Sergeant's Daily Report for incident F101-04 identified 14 additional officers who heard shots and were ordered not to discuss the incident; but there was insufficient evidence contained in the supporting documents for the OIG to determine whether these officers were separated and monitored. Audit Division did not include these 14 officers in their "separation of officers" analysis

⁷ Supporting documentation for incident F097-04 (OIS Hit) identified two officers who responded to the scene and were separated and monitored; but AD did not include these two officers in their "separation of officers" analysis.

Audit Division management agreed that their methodology could be improved; however, AD believes that Departmental controls effectively ensure that all CUOF incidents are presented to the UFRB.

- Consent Decree ¶ 56 requires the Department to “immediately” notify the OIG, FID, and the COP when a CUOF incident occurs. Audit Division assessed the Department’s compliance with this paragraph by evaluating the lapse of time it took the Division of occurrence to notify the DCP, and the DCP to notify the OIG, FID, and the COP. Specifically, AD used a 15-minute criteria for DCP notifications to the above entities; however, in evaluating the timeliness of Division of occurrence notifications to the DCP, AD only held “unjustified notification delays over 60 minutes” out of compliance with the mandates of the paragraph. The OIG has the following concerns with AD’s evaluation of this paragraph:
 - For the prior AD CUOF Systems Audit (FY 2003/2004), AD evaluated the timeliness of Division of occurrence notifications to the DCP using a non-compliance criteria of “unjustified notification delays over 20 minutes,” and this 40-minute increase since the last audit is not mentioned and/or explained in AD’s report; and,
 - Given that the IG, FID, COP and District Attorney are notified subsequent to the initial notification to the DCP, a non-compliance criteria of “unjustified notification delays over 60 minutes” appears too lenient and directly impacts response times for the above entities.⁸

If AD had used a non-compliance criteria of “unjustified notification delays over 20 minutes,” the compliance percentage would have decreased from 91.3 percent (21/23) to 78.2 percent (18/23), in that three additional unjustified notification delays between 20 and 60 minutes, identified by AD, would have been included in the calculation.

When questioned about the aforementioned 40-minute criteria change since the last audit, AD management stated that it would be unreasonable to hold the Department to an arbitrary 20-minute standard, given that there is no Department policy to define “immediate” notification. The OIG disagrees with this rationale and believes a 20-minute criteria is reasonable to evaluate the Department’s compliance with this paragraph.

(THIS SECTION WAS INTENTIONALLY LEFT BLANK)

⁸ Audit Division reported that, on average, FID arrived at the scene one hour and 36 minutes after being notified by the DCP.

Report Quality

The report appropriately delineated the audit's objectives, scope, methodology, and status of prior audit recommendations. Also, the report was issued in a timely manner (within a year of AD's last audit), used a fair and unbiased tone, and was generally clear. However, the report did not satisfactorily communicate AD's review of CD ¶ 56 pertaining to "notifications" as follows:

- As previously noted on page 6, AD's report did not mention that the criteria that AD used for assessing CD non-compliance for "immediate" notification to the DCP changed from unjustified delays over 20 minutes (prior audit) to 60 minutes (current audit).
- Table 4 of AD's report indicated that for 14 of 23 incidents, the DCP was notified between 20 and 60 minutes after the incident. Audit Division determined that for 11 of these 14 incidents, the delays over 20 minutes were justified, and AD specifically identified the incidents and provided details as to why the delays were justified.⁹ However, for the three incidents with delays over 20 minutes that AD determined to be unjustified, AD did not specifically identify the incidents nor provide details as to why the delays were unjustified.
- The report does not mention the criteria that AD used for assessing CD compliance for "immediate" notification to the COP and FID. Audit Division's testing work papers reflected that they used a criteria of 15 minutes, which is consistent with DCP's internal policy.

Conclusion

Overall, the audit was properly planned, supervised, conducted, and reported in a quality manner. However, the aforementioned "notification" issues affected both the audit quality and report quality.

⁹ The OIG's believes documents for at least four incidents (of the 11) contained insufficient evidence to made that conclusion.