

LOS ANGELES POLICE COMMISSION

*Review of the
Department's
Categorical Use of Force
Interim Audit Report
Fourth Quarter, Fiscal Year 2003/2004*



Conducted by

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

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OFFICE OF THE INSPECTOR GENERAL

**REVIEW OF THE
DEPARTMENT'S CATEGORICAL USE OF FORCE
INTERIM AUDIT REPORT
FOURTH QUARTER, FISCAL YEAR 2003/2004**

I. BACKGROUND

Consent Decree (CD) paragraph (¶)129 mandates the Los Angeles Police Department (LAPD or Department) to conduct a regular and periodic audit of Categorical Use of Force (CUOF) investigations for timeliness, completeness, accuracy of statements and adequacy. This is the Department's third CD related audit of CUOF investigations. To meet the objective of timeliness and to simplify the review process, the audit was divided into two parts: *Categorical Use of Force Interim Audit Report*; and *Categorical Use of Force Investigations Final Audit Report*.

The Department's Annual Audit Plan scheduled the CUOF Interim Audit for completion during the fourth quarter of Fiscal Year 2003-2004. The audit was completed by Audit Division and signed by the Chief of Police (COP) on May 27, 2004, as scheduled on the Department's Annual Audit Plan.

II. PURPOSE

Consent Decree ¶135 requires the Office of the Inspector General (OIG) to evaluate audits conducted by the Department for quality, completeness, and findings. Consent Decree ¶135 also requires the Department to provide the OIG with a copy of the audit within one week of completion. The OIG received the audit on June 10, 2004; 14 days after the COP signed the report. As a result, the Department was non-compliant with the ¶135 one-week deadline.

III. PRIOR AUDITS

The Department has completed two prior audits of CUOF investigations, both of which were conducted by Audit Division. The first audit focused on the Department's compliance with CD ¶¶55(a) through 69 and consisted of two parts: *Categorical Use of Force Investigations Audit*, dated April 8, 2002; and *Categorical Use of Force Review Process Audit*, dated July 1, 2002. The COP signed the second Categorical Use of Force Investigations Audit on August 22, 2003.

Closed Recommendations

The prior audits made the following recommendations, all of which have been addressed or implemented.

- Critical Incident Investigation Division (CIID) document all internal training related to CD mandates and ensure that the training is entered in the Training Management System (TMS) for each employee.
- Critical Incident Investigation Division forward a copy of the request for the Commanding Officer's (C/O) analysis of a supervisor's presence or absence at a CUOF incident to the appropriate bureau C/O.
- The C/O, Communications Division, reevaluate the systems and controls used to complete and maintain notification logs.
- Behavioral Science Services (BSS) place a higher priority on CUOF incidents so the officers are seen within two-to-five days of the incident.
- Critical Incident Investigation Division develop a standard practice to document either in writing or on electronic tape during the tape-recorded interview, that the provisions of CD ¶80b, c, and f were met or provide justification when the provisions were not attainable.

Pending Recommendations

The OIG's review of the Department's prior CUOF audits recommended the following.

- It is recommended that the Department develop procedure to ensure that employees involved in an accidental discharge receive additional firearms training at Continuing Education Division immediately after the incident.
- It is recommended that the Department establish a deadline for the return of the Internal Process Report and that it be included with the correspondence from Human Resources Bureau.

Civil Rights Integrity Division (CRID)¹ was contacted on October 26, 2004, regarding the status of these two recommendations. According to CRID, the Department is currently reviewing the feasibility of these recommendations.

¹ Civil Rights Integrity Division is the Department entity assigned to track the progress of audit recommendations.

IV. OVERVIEW OF THE DEPARTMENT AUDIT

Audit Division's interim report analyzed existing Department policy as well as compliance with CD ¶¶55, 56, 58, 59, 61, 62, 63, 64, 65, 67, 69, 83, and 147.² Audit Division used two populations for the audit. All CUOF incidents that occurred during the time period October 1, 2003, through December 31, 2003, was used to analyze compliance with Department policy and CD ¶¶56, 58, 61, 62, 63, 65, and 147. A second sample of CUOF investigations that occurred during February through April 2003 was selected to analyze compliance with CD ¶¶67 and 69. Audit Division utilized Department publications and interviews to determine compliance with CD ¶¶55, 59, 64, and 83. A paperless matrix generated from a Microsoft Access database was used to capture and analyze the matrix questionnaire responses. Each CUOF package was subjected to three levels of review.

Audit Division found the Department in compliance with all the CD paragraphs mentioned above with the exception of CD ¶¶56, 62, and 147. Paragraph 56 was found non-compliant because of the Department's inability to verify whether CUOF notifications sent via text message were actually received by the COP and the Inspector General. Paragraph 62, which relates to the analysis of the presence or absence of supervisory oversight at a CUOF incident, was found non-compliant due to a lack of properly documenting the analysis of the supervisor's actions at the scene of the incident. Paragraph 147, which relates to timely CUOF notifications to the Inspector General, was found non-compliant because of two CUOF incidents where a notification was not received by the OIG until the following day.

V. METHODOLOGY

To assess the quality, completeness, and findings of the audit conducted by Audit Division, the OIG reviewed the audit report, the work plan, the database which contained the audit matrix and crib sheet, and all CUOF supporting documents, including the COP 24-Hour Occurrence Logs, Watch Commander's Daily Reports, Sergeant's Daily Logs, Department Command Post (DCP) Incident Notification Logs, Daily Worksheets, Daily Field Activity Reports, Incident History Logs and various correspondence. The OIG randomly selected a sample of CUOF incidents and evaluated the investigations using Audit Division's matrix. For findings that were identified as anomalies by both the OIG and Audit Division, the OIG reviewed the audit report to verify inclusion of the finding.

² See Appendix A "Consent Decree Paragraphs" for a summary of the mandates of each paragraph. A brief summary of each paragraph is also documented in the "Detailed Findings" section of this report.

Audit Population

To confirm the completeness of the population, the OIG requested a query report using the same date parameters identified in Audit Division's report from the Use of Force Review Section (UOFRS) and CIID. The OIG did not identify any issues related to the audit populations used by Audit Division.

Audit Division examined a total of 24 CUOF incidents that occurred during the time period October 1, 2003, through December 31, 2003, to determine compliance with §§56, 58, 61, 62, 63, 65, and 147. In addition to the 24 CUOF incidents, Audit Division reviewed and excluded six animal shootings and accidental discharges from its population because it determined that they were not CUOF incidents as defined by the CD. The OIG reviewed one accidental discharge and two animal shootings and concurs with Audit Division's assessment. Using a one-tail test with a 95% confidence level, +/- 7% error rate, the OIG randomly selected 16 CUOF investigations for review.

To determine compliance with §§67 and 69, which relate to forwarding a CUOF investigation to the Use of Force Review Board (UOFRB) and Police Commission (PC) for review, Audit Division used a random statistical sample of 16 CUOF investigations that occurred between February 1, 2003, through April 30, 2003, to calculate date averages. The OIG verified the accuracy of the sampling method used by Audit Division and utilized the same sample during our review of these two paragraphs.

VI. CONCLUSION

The OIG found that Audit Division's methodology contained detailed procedures to adequately accomplish the audit objectives. The audit objectives established by Audit Division were geared to address Consent Decree issues and to identify the effectiveness of existing Department policy and procedures as they relate to CUOF investigations. The audit objectives included a measure of CUOF notifications to the appropriate entities, assessment of first responding supervisor, separation of officers after the incident, referrals to BSS, and the timeliness of the CUOF review process. The OIG found that the matrix questions created by Audit Division for this audit were effective in generating the intended results of the audit objectives.

Audit Division was able to conclude that the Department is complying with 10 of the 13 CD paragraphs measured in their audit report. Audit Division concluded non-compliance with CD §§ 56 and 147 involving notifications to the COP and OIG. As a result of Audit Division's findings, the Department, in conjunction with the OIG, revised procedure related to notifications and the appropriate documentation to facilitate future audits. Audit Division also found the Department non-compliant with CD §62, relating to an

analysis of the supervisor's actions at the scene of the incident, due to poor articulation of the supervisor's assessment.

Issues Identified by the OIG

The OIG's review identified issues that had some negative impact on the quality, completeness, and the findings of the audit report. In totality, however, and based on the comments made above, the issues identified by the OIG did not rise to level which would make the audit report or its findings unreliable.

Audit Division assessed compliance with Special Order (SO) No. 21, 2003, entitled "Return to Field Duty of Personnel Involved In An Officer-Involved Shooting Resulting in Injury or a Categorical Use of Force Resulting in Death or the Substantial Possibility of Death," under the CD ¶63 objective.

However, Audit Division relied solely on the information contained on a correspondence, which documents the officer's evaluation to return to field duty, to measure compliance with this paragraph. The OIG feels that further fieldwork in the form of reviewing Daily Worksheets should have been conducted to verify the accuracy of the information contained on the correspondence. Additionally, Audit Division's review did not measure all the requirements of SO No. 21, including documenting the date the C/O consulted with BSS and listing the specific assignments of the officers prior to returning to field duties.

The issues identified by the OIG that affected the quality, completeness, and the findings of Audit Division's report are summarized in the tables on the next three pages. These findings are explained in more detail under the "Detailed Findings" section of this report.

It should be noted that the Independent Monitor has reviewed Audit Division's report and found the audit compliant with ¶129. The CUOF investigations selected and reviewed by the OIG was also the same set of CUOF investigations reviewed by the Monitor.³

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³ The Monitor's sample was selected using a +/-4% error rate, which resulted in four additional CUOF investigations.

Quality

For the purposes of this audit, quality will be defined as an audit that is complete and contain evidence needed to satisfy the audit objectives. The evidence presented must be true and the findings must be correctly portrayed. The findings must be adequately supported by the audit documentation, which support the conclusions and recommendations made. Furthermore, areas that have the highest potential for adverse consequences should be evaluated. The audit should provide the Department with the information necessary to facilitate management decisions and enhance the public accountability of the organization.

The following provides issues identified by the OIG related to quality.

<i>Objective Measured</i>	<i>CIID No.</i>	<i>Issue Identified</i>
<p style="text-align: center;"><u>Consent Decree ¶63</u> Requires the referral of officers involved in a CUOF resulting in death or the substantial possibility of death to BSS for a psychological evaluation. Special Order No. 21, 2003 specifies the required documentation when assessing an officer's suitability to return to field duty after being involved in a CUOF incident.</p>	<p>056-03 057-03 065-03 A036-03 A042-03 A045-03</p>	<p>Audit Division relied solely on the information contained on a correspondence, which documents the officer's evaluation to return to field duty, to measure compliance with this paragraph. The OIG reviewed Daily Worksheets to verify the accuracy of the information contained on the correspondence and identified two anomalies where officers who should have been removed from the field worked field duty prior to obtaining appropriate clearances. In another CUOF incident, the OIG was unable to verify whether appropriate clearances were obtained for three officers because the area could not locate the requested Daily Worksheets.</p> <p>Audit Division assessed compliance with Department policy using SO No. 21 however, not all procedures outlined in SO No. 21 were evaluated by Audit Division including the date the C/O consulted with BSS and the specific assignments of each officer prior to returning to field duty. See pages 16 through 18.</p>

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Completeness

For purposes of this audit, completeness will be defined as the identification and documentation in the working documents, as well as the audit report, of all issues raised during the review to include both significant and less significant issues. Additionally, completeness will include a determination of the adequacy of the audit populations.

The following provides issues identified by the OIG related to completeness.

<i>Objective Measured</i>	<i>CIID No.</i>	<i>Issue Identified</i>
<u>Consent Decree ¶61</u> Requires immediate separation of involved officers and witness officers after an Officer-Involved-Shooting	056-03	As part of their review, Audit Division identified and reviewed documentation for all supervisors who were tasked with monitoring the officers who were involved in or a witness to the CUOF incident. The OIG identified one additional sergeant who was overlooked by Audit Division and was not included in their review. See pages 13 through 15.
	A041-03	Audit Division identified and reviewed the documentation of separation and monitoring for eight officers. The OIG identified a ninth officer, who was appropriately separated and monitored, overlooked by Audit Division during their review. See pages 13 through 15.
	A044-03	An Employee Comment Sheet for this CUOF incident names one additional officer who is not mentioned in any other supporting document. Further follow-up by the OIG revealed that this officer was erroneously included in the Employee Comment Sheet. Audit Division did not identify this anomaly during their review. See pages 13 through 15.

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Findings

For purposes of this audit, findings shall present factual data accurately, completely, and fairly. Findings should be adequately supported by sufficient evidence in the auditors’ working papers to demonstrate or prove the bases for the matters reported and their correctness and reasonableness.

The following provides issues identified by the OIG related to findings.

<i>Objective Measured</i>	<i>CIID No.</i>	<i>Issue Identified</i>
<p><u>Consent Decree ¶56</u> Requires, among other things, immediate notification of a CUOF incident to the COP</p>	A039-03	Although Audit Division properly identified the “text only” notification sent to the COP as an anomaly in their working papers, Audit Division did not include the finding in their audit report. As a result, the “Average Notification Times” for the COP was incorrectly reported as 37 minutes instead of 36 minutes on page 14 of their audit report. See page 12.
<p><u>Other Related Matter</u> Audit Division classified CUOF incidents which resulted in a skeletal fracture into a separate category</p>	A039-03	The OIG identified one additional incident that documented a skeletal fracture resulting from a UOF. Audit Division did not capture this. See page 20.

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VII. DETAILED FINDINGS

Audit Division evaluated 13 objectives to determine compliance with the CD. Audit Division also analyzed the CUOF documents for compliance with Department policy. The results of the OIG's review of each objective are listed below.

CUOF Investigations/CIID Responsibility - CD ¶55

Paragraph 55 requires the following: the Department create a unit within six months of the effective date of the CD, whose main responsibility is to conduct administrative investigations of CUOF incidents; the investigators assigned to this unit must be supervisors; within the organizational structure of the Department, this unit cannot have direct line supervision over any geographic bureaus; and investigators assigned to this unit must be trained in conducting administrative investigations as specified in CD ¶80.

The OIG concurs with Audit Division that the Department is complying with all of the requirements of ¶55, as noted below.

- Critical Incident Investigation Division was created on December 11, 2001, per SO No. 39, 2001, meeting the requirement that the Department establish a unit, responsible for conducting administrative investigations of CUOF incidents, within six months of the CD.
- The CD requirement of having CIID investigators be of supervisory rank was verified by the OIG through a review of Department Personnel Deployment Rosters.
- A review of past and present Department organizational charts did not place CIID in direct line of supervision over any geographic bureaus since the inception of the CD.
- The OIG verified that CIID provided training to their investigators regarding the elements of CD ¶80. Additionally, a copy of CIID's *Consent Decree Training* course outline was reviewed and was found to have addressed all the requirements set forth in ¶80.

CIID to attend all CUOF Incidents/Notifications/Crime Scene Command – CD ¶56

Paragraph 56 requires the following: CIID must have the ability to “roll out” to all CUOF incidents 24 hours a day; when a CUOF incident occurs, the Department must immediately notify the COP, CIID, the PC, and the OIG; the senior CIID investigator must have overall command of the crime scene and investigation unless the COP, the Department Commander, or the Chief's Duty Officer (CDO) assumes command when there is a specific need to do so.

The OIG concurs with Audit Division's finding of non-compliance with ¶56 based on the Department's inability to verify whether the intended recipient received notifications sent via a text message. The OIG also concurs with the other findings related to ¶56, which are listed below.

- In addition to Audit Division's review of CIID roll-out rosters, the OIG's review of the COP 24-Hour Occurrence Logs and DCP Notification Logs support the fact that CIID personnel have the capability to "roll-out" to CUOF incidents 24 hours a day. Of the 16 CUOF investigations reviewed by the OIG, CIID was notified of 12 incidents that occurred during non-business hours.⁴
- A senior CIID investigator had overall command of the crime scene and investigation for the 16 CUOF incidents reviewed by the OIG. A review of CIID's December 2003 Organizational Chart revealed all "roll out" teams had a Detective III as the senior investigator with the exception of one team, which consisted entirely of Detective IIs. The OIG contacted CIID to discuss their organizational chart. The CIID indicated that one Detective II was the acting Detective III between September 2003 through January 2004 until that position could be filled. Sometime in January 2004, CIID was reorganized so that a Detective III was the senior investigator for each "roll-out" team.
- There were no issues identified with the timeliness of notifications made to CIID personnel since a group of CIID investigators are notified of a CUOF incident at the same time.

There is, however, an issue relating to documentation of receipt of CUOF notifications. This will be discussed on the following page.

CUOF Notification System Issue

The OIG concurs with Audit Division's finding questioning the reliability of the CUOF notification system. As mentioned in Audit Division's report, some of the CUOF incident notifications made to the COP and the OIG were sent via e-mail only using the Department-issued Groupwise software. The e-mail notification is then sent to a portable text-messaging device known as a Blackberry. Once sent, it was assumed that the recipients received the text message notification on their Blackberry device.

There are known instances when the Department experiences problems with its e-mail server which cause delays in the sending and receiving of e-mails. Additionally, there is always the possibility that the Blackberry device will malfunction for a variety of reasons including dead batteries, being dropped too many times, etc. Unless, the recipient

⁴ For the purpose of this review, business hours were defined as 0600 through 1730.

verifies that they received the e-mail notification sent by the DCP, the Department should not automatically assume a text message was sent and received without any problems.

Actions Taken by the OIG

The OIG contacted Communications Division regarding this issue. According to the Acting C/O, Communications Division is currently looking into software that will automate the tracking of notifications sent and will verify whether recipients actually received the message. Funding for this system has already been approved and implementation will occur before the end of 2004.

The Officer-in-Charge of the DCP was also queried regarding this issue. He indicated that after an e-mail notification is sent to the Blackberry users and a response is not received within a few minutes, DCP personnel now conduct a follow-up phone call to ensure the intended recipient is notified of the CUOF incident.

To address this issue as it relates to the OIG, the Inspector General directed staff who respond to CUOF incidents to reply to a CUOF text notification using either the Blackberry device (which also allows a user to send out messages) or by telephone indicating the notification was received and whether the OIG will respond to the scene of the incident.

Other Related Matters - Audit Work Paper Discrepancies

The OIG identified the following work paper discrepancies during our review of ¶56.

CIID No. A039-03, Law Enforcement Related Injury (LERI), Rampart Area

Based on the 16 CUOF investigations selected for the OIG's review, a total of seven instances were identified where only a Blackberry text message was sent to the COP and no verification was made to determine whether the message was received. Audit Division reported only six anomalies in the audit report, although a seventh anomaly was properly identified in their working papers. As a result of this finding, Audit Division's calculation of the average time to notify the COP changes from 37 minutes to 36 minutes on page 14 of the audit report.

CIID No. A044-03, LERI, Metropolitan Division⁵

The OIG identified a discrepancy in the COP 24-Hour Occurrence Log, which listed the "Time of Occurrence" of the CUOF incident as 0455 hours and listed the "First CIID Personnel Arrival" as 0405 hours. The OIG contacted CIID for

⁵ See Appendix B "Primary Matrix Discrepancies - CIID No. A044-03" for working paper anomalies that resulted from this finding.

clarification on this matter and it was determined that a typographical error was made on the log. A correspondence was received from CIID on July 22, 2004, correcting the time of the "First CIID Personnel Arrival" from 0405 hours to 0620 hours. Although the review of Audit Division's matrix for this incident displayed a concern between the different auditors based on their answers, however, Audit Division did not clarify the issue.

The finding for CIID No. A039-03 was discussed with Audit Division, who concurred with the OIG, during a post-audit meeting on July 29, 2004. As it relates to CIID No. A044-03, the OIG forwarded a copy of the correspondence received from CIID to Audit Division.

District Attorney (DA) Notification – CD ¶58

Paragraph 58 requires the Department to notify the Los Angeles County District Attorney's (DA) Office whenever any officer shoots and injures any person or whenever an individual dies while in the custody of the LAPD and a UOF may be the proximate cause of death.

The OIG concurs with Audit Division that the Department is complying with the requirement of making appropriate DA's Office notifications for Law Enforcement Agency Related Deaths (LEARD), an Officer-Involved-Shooting (OIS) with injuries, or an In-Custody Death (ICD) where the cause of death may have stemmed from a related UOF.

Other Related Matters

The OIG's review identified differences in the synopsis of the incident between the DA Snap Sheets, provided by the DA's Office, and the Department's CUOF documents. This issue was discussed with Audit Division who indicated that they did not consider reviewing the DA's synopsis of the incident because the information presented to the DA is provided by the DCP (a third-party notifier) and occurs in the very early stages of the CUOF investigation. Therefore, differences on the synopsis of the incident between the different documents can be expected. The OIG concurs with this assessment.

Actions Taken by the OIG

The OIG contacted the DA's Office for their opinion on this matter. The DA's Office concurred with Audit Division's rationale and does not see any issues with differences between the initial information the Department provides their office versus the final outcome of the investigation because the Department provides them with a copy of the completed investigation.

LAPD to Cooperate with DA at Scene of Incident - CD ¶59

Paragraph 59 requires the Department to provide cooperation with DA personnel who arrive at the scene of a CUOF incident.

The OIG concurs with Audit Division that the Department is cooperating with DA personnel who arrive at the scene of a CUOF incident. The OIG reviewed paraphrased interviews of DA personnel conducted by Audit Division and a correspondence from the Head Deputy DA expressing his satisfaction with the level of cooperation LAPD personnel is providing his staff.

Separate Statement of Officers – CD ¶61

Paragraph 61 requires the Department to separate and monitor all involved and witness officers of an OIS CUOF incident until all such officers have given statements.

Audit Division conducted a two-step review for this objective. The first review addressed the requirements of ¶61, which directs the separation and monitoring of officers involved in an OIS incident. The second portion of the review addressed the requirements of current Department policy, which directs the separation and monitoring of officers for *any type* of CUOF incident.

The OIG concurs with Audit Division that the Department is in compliance with ¶61 by ensuring that officers are separated after an OIS until they provide a statement to CIID investigators. Audit Division's report appropriately identified one incident that did not meet the requirements of ¶61.

The Department was found non-compliant with Department policy delineated in SO No. 19, 2003, entitled "Obtaining a Public Safety Statement and Separating Officers Following a Categorical Use of Force Incident," which requires the separation and monitoring of officers for all types of CUOF incidents. Audit Division's review identified two CUOF incidents that did not document justification for deviation from the requirements of SO No. 19. The OIG's review identified three additional officers and one sergeant, listed below, who were overlooked by Audit Division during their review.

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A056-03, OIS-Hit, Rampart Area

Out of nine officers who were either involved in or a witness to the UOF, Audit Division identified three officers who were monitored by one supervisor due to personnel constraints. The OIG's review identified a fourth officer who was also monitored in a group setting due to supervisory constraints.

The OIG's review of the supporting documents identified one additional sergeant, referenced on the Watch Commander Daily Report, who aided in monitoring and transporting officers. Audit Division's working papers made no mention of this sergeant nor was a copy of the Sergeant's Log for this officer included as a supporting document.

A041-03, LERI, 77th Street Area

Audit Division's review identified eight officers that were either involved or a witness to the CUOF incident. The OIG identified a ninth officer, who was overlooked by Audit Division, during our review. The OIG did not identify any issues pertaining to the separation and monitoring of this officer since the requirements were appropriately documented on the Sergeant Log's and Watch Commander's Daily Reports.

A044-03, LERI, Metropolitan Division

Audit Division identified the separation of four involved officers. The OIG identified a fifth officer mentioned in an Employee Comment Sheet, Form 1.77, prepared by the C/O. The Employee Comment Sheet documented five officers were separated as mandated, however, none of the Sergeant's Logs or Watch Commander's Daily Reports make any mention of the fifth officer. Based on additional follow-up and a review of the investigative case file, it appears the fifth officer was erroneously included in the Employee Comment Sheet. The findings were discussed with Audit Division, who concurred with the OIG, during a post-audit meeting on July 29, 2004.

Supervisory Oversight – CD ¶62

Paragraph 62 requires Department managers to analyze the circumstances surrounding the presence or absence of a supervisor at a CUOF incident within one week of the date of occurrence of the incident. The supervisory conduct shall be taken into account in each supervisor's annual personnel performance evaluation.

The OIG concurs with Audit Division that the Department is non-compliant with ¶62 due to a lack of properly documenting the analysis of the first responding supervisor. In

addition to drafting a correspondence to CIID discussing the analysis of the presence or absence of a supervisor at the scene of a CUOF incident, SO No. 35, 2003, entitled "Duty to Assess a Supervisor's Response to a Categorical Use of Force," also requires that the analysis of the first responding officer be documented on an Employee Comment Sheet with "individuality and specificity." The Employee Comment Sheets are then taken into consideration when a C/O drafts the supervisor's annual personnel performance evaluation.

Of the 24 CUOF incidents in Audit Division's sample population, Audit Division reviewed Employee Comment Sheets for nine incidents. An explanation was not provided in the audit report as to why a review of the Employee Comment Sheets for the remaining 15 CUOF incidents was not conducted.

Actions Taken by the OIG

The question concerning the number of CUOF incident Employee Comment Sheets reviewed by Audit Division was raised during a post-audit meeting with Audit Division. Audit Division indicated that in the early stages of the fieldwork for this objective, it became apparent that the Areas were unaware of the requirement to document the analysis of the first responding supervisor on an Employee Comment Sheet. As a result, Audit Division only reviewed Employee Comment Sheets for only nine CUOF incidents since non-compliance was already determined. The OIG recommended that for future audits, a justification for reducing the sample for a given objective be documented in the audit report or working papers for clarity.

Other Related Matters - Department Policy

Of the 16 CUOF investigations reviewed in the OIG's sample, 15 contained correspondence, dated within one week of the incident as required by ¶62, evaluating the actions of the first responding supervisor. One correspondence was dated 24 days after the date of the incident and was appropriately reported as an anomaly by Audit Division.

Special Order No. 35, 2003, requires the involved officer's C/O to prepare and forward a correspondence to CIID no later than seven days following the CUOF incident confirming that a supervisor assessment was made. Although not a Department requirement that the correspondence be received by CIID within seven days, the OIG identified five correspondences where a stamp indicating the date the correspondence was received by CIID was dated 14 days or later after the date of the correspondence.

Audit Division has indicated it will include an assessment of the dates the correspondence was received by CIID in attempts to identify the reasons for the delay.

The following correspondence dates were identified as anomalies by the OIG.

<i>CIID No.</i>	<i>Type of CUOF</i>	<i>Area</i>	<i>Correspondence Date</i>	<i>Date Received by CIID</i>	<i>Total Number of Days</i>
056-03	OIS - Hit	Rampart Area	11/3/03	11/17/03	14
A039-03	LERI	Rampart Area	11/26/03	12/12/03	16
A041-03	LERI	77 th Street Area	12/11/03	1/27/04	47
A043-03	Neck Restraint	Valley Traffic Division	12/18/03	1/29/04	42
A045-03	LEARD	Valley Traffic Division	12/22/03	1/29/04	38

BSS Evaluation of Officers Involved in Deadly Force CD ¶63

Paragraph 63 requires the Department to continue its practice of referring all officers involved in a CUOF resulting in death or the substantial possibility of death to BSS for a psychological evaluation by a licensed mental health professional. Officers shall not return to field duty until their supervisor determines that the officer should be returned to field duty upon consultation with BSS.

The OIG requested the Daily Worksheets of all officers who were referred to BSS. The OIG's review identified five officers from three CUOF incidents who worked field duty assignments prior to receiving approval from BSS to return to field duty. The following incidents were non-compliant with ¶63.

CIID No. 056-03, OIS - Hit, Rampart Area

This CUOF incident occurred on November 1, 2003, and involved nine officers. A review of Rampart Division's Daily Worksheets identified two officers who worked field duty assignments prior to obtaining a psychological evaluation from BSS and receiving approval from the Bureau C/O, and the COP to return to the officers to field duty.

CIID No. 057-03, OIS - Hit, Wilshire Area

The correspondence concerning the BSS evaluation did not list the date the officers returned to field duty. The OIG requested Daily Worksheets from November 1, 2003 (the date of the incident) through November 10, 2003. Wilshire Area provided only two days, November 6 and 7. Due to the missing Daily Worksheets, the OIG was unable to verify whether officers worked field duty prior to obtaining approval.

CIID No. 065-03, OIS - No Hit, Southeast Area

The correspondence concerning the BSS evaluation for one officer documented that the officer returned to field duty on January 16, 2004. A review of Southeast Area's Daily Worksheets documented the officer returning to field duty on January 15, 2004. The OIG viewed this discrepancy as administrative in nature since the correspondence listed January 13, 2004, as the date appropriate approval to return the officer to field duty was obtained from the Bureau C/O and COP. The psychological evaluation conducted by BSS occurred on December 30, 2003.

The OIG concurs with Audit Division's finding that the Department is non-compliant with Department policy outlined in SO No. 21, 2003, entitled "Return to Field Duty of Personnel Involved In An Officer-Involved Shooting Resulting in Injury or a Categorical Use of Force Resulting in Death or the Substantial Possibility of Death." The OIG notes, however, that Audit Division's review did not measure all the requirements of SO No. 21, including documenting the date the C/O consulted with BSS and listing the specific assignments of the officers prior to returning to field duties. Audit Division's working papers noted some of the discrepancies identified below, however, the findings were not incorporated into their final report. The following anomalies were identified by the OIG during our review.

CIID No.057-03, OIS - Hit, Wilshire Area

This incident involved three officers who were all referred to BSS for a psychological evaluation. The correspondence sent to the UOFRB regarding BSS psychological evaluation did not document the date the COP approval was obtained to return the officers to field duty, the specific assignments of the officers on each of the dates prior to the officer being returned to field duty, and the date the officer was returned to field duty.

CIID No. A036-03, In-Custody Death, Van Nuys Area

The correspondence sent to the UOFRB regarding the officer's BSS psychological evaluation did not document the date the C/O consulted with BSS and the date the involved officers were returned to field duty.

CIID No. A042-03, LEARD, Central Area

The specific assignments of the officers on each of the dates prior to the officer being returned to field duty were not documented on the correspondence to the UOFRB, as required.

CIID No. A045-03, LEARD, Valley Traffic Division

The specific assignments of the officers on each of the dates prior to the officer being returned to field duty were not documented in the correspondence to the Chair of the UOFRB, as required.

Actions Taken by the OIG

Correspondence was forwarded to the Assistant Director of the Office of Operations requesting that an assessment be conducted to determine whether training regarding SO No. 21, 2003, entitled "Return to Field Duty of Personnel Involved In An Officer-Involved Shooting Resulting in Injury or a Categorical Use of Force Resulting in Death or the Substantial Possibility of Death" should be provided Department-wide.

Other Related Matters

On September 7, 2004, the OIG received a copy of a correspondence from the COP dated August 27, 2004, titled "Corrections to the Categorical Use of Force Investigations Interim Audit Report (AD No. C03-147)." The correspondence indicated that Audit Division inappropriately identified the failure to document the C/O's interview with the involved employees as an anomaly on the audit report in four CUOF investigations. The correspondence appropriately retracted Audit Division's listed anomalies since SO No. 21 does not require documenting the date the C/O interviewed the involved employees.

A fifth anomaly with regard to documenting the date that one of the two involved employees returned to field duty was appropriately retracted by Audit Division since the correspondence completed by West Valley Area contained sufficient information to comply with SO No. 21. The OIG concurs with Audit Division's corrections, however, based on the OIG's findings listed on the previous page, the Department remains non-compliant with Department policy as it relates to the properly documenting the requirement of SO No. 21.

Officer History Considered for Disciplinary and Non-Disciplinary Actions – CD ¶64

Paragraph 64 requires the Department to consider an officer's work history, including information contained in the Training Evaluation And Management System (TEAMS) II⁶ and the officer's CUOF history, including a review of the tactics the officer has used in past uses of forces when a manager reviews and makes recommendations regarding discipline or non-disciplinary action as a result of a CUOF.

⁶ For this review, TEAMS II will be substituted with TEAMS since the Department is currently in the process of completing TEAMS II.

The OIG concurs with Audit Division that the Department is taking an officer's work history and CUOF history into consideration for Disciplinary and Non-Disciplinary Action as a result of a CUOF incident. As mentioned in Audit Division's report, this process occurs during a closed session of a UOFRB hearing. This finding was confirmed with OIG analysts who attend UOFRB hearings as part of their assignment.

Other Related Matters

The current TEAMS only captures CUOF incidents involving an OIS. Non-OIS CUOF incidents are tracked by UOFRS. The UOFRS was contacted to verify that they do, in fact, present an officer's UOF History to the board members during a hearing. The TEAMS II Development Bureau was contacted to verify that the new TEAMS II Use of Force System has been modified to capture all types of CUOF incidents.

Report CUOF Incidents Without Delay – CD ¶65

Paragraph 65 requires the Department to continue to require officers to report without delay the officer's own UOF (on the UOF form).

Initially, the OIG was unable to determine how Audit Division measured compliance for this objective, as there was no documentation in the audit working papers that supported a review of the time a supervisor was notified of the CUOF. Additionally, Audit Division's matrix did not capture the time officers, who were involved in the CUOF incident, notified a supervisor.

Actions Taken by the OIG

This issue was raised in a post-audit meeting with Audit Division. According to Audit Division, if the DCP was notified within 20 minutes, it was automatically assumed that a supervisor made the notification after being informed of the CUOF incident and that the notification to the supervisor was timely. For notifications to the DCP beyond 20 minutes, the project manager conducted a case-by-case review of the incidents. None of the incidents were found to contain any indication that a supervisor was not notified within a reasonable period of time with the exception of one incident, which was identified as an anomaly by Audit Division.

The OIG reviewed Watch Commander Daily Reports and Sergeant's Logs of the 16 CUOF incidents in our sample population to identify the time a supervisor was informed of the CUOF incident. There were no issues found with regard to officers notifying a supervisor of a CUOF incident without delay. The OIG concurs with Audit Division's finding for this objective.

Police Commission Review – CD ¶67

Paragraph 67 requires the PC to review all CUOF reports. These reports shall be provided to the PC at least 60 days before the running of any statute of limitations that would restrict the imposition of discipline.

The OIG's Officer-Involved-Shooting Section maintains a database that keeps track of CUOF data including the dates an investigation was received and forwarded. The dates from the OIG's database were compared with the dates Audit Division obtained from the UOFRS, which they used to measure compliance with this paragraph. The OIG concurs with Audit Division that all 16 CUOF investigations selected for the audit population were provided to the PC at least 60 days prior to the running of statute.

UOFRB Review – CD ¶69

Paragraph 69 requires the UOFRB review all CUOF investigations.

The OIG concurs with Audit Division that the UOFRB reviewed all CUOF incidents in the audit population. The OIG's review determined that the hearing for one CUOF investigation (CIID No. A010-03) was postponed to a later date. As a result, this changed the average number of days between the date of the incident and the date the UOFRB convened from 169 days to 172 days on page 36 of Audit Division's report.

TEAMS II Access CD ¶83

Paragraph 83 requires CIID investigators to have access to the information contained in TEAMS.

The OIG concurs with Audit Division that CIID investigators have adequate Department-wide access to information contained in TEAMS. The OIG reviewed a list provided by Information Technology Division of TEAMS access levels for CIID personnel and identified no issues.

OIG Notification of CUOF CD ¶147

Paragraph 147 requires the Department to notify the Inspector General of all CUOF incidents in a timely manner.

The OIG concurs with Audit Division that the OIG was not appropriately notified in two CUOF incidents. In one of the incidents, the DCP left a message on the OIG's voice mail system and in the other incident the Inspector General was notified via Blackberry, however the Blackberry device was not working (See ¶56).

Based on the 16 CUOF incidents selected for the OIG's population, the average time it took the DCP to notify the OIG of a CUOF incident was one hour, seven minutes.

Other Related Matters

Skeletal Fractures

The OIG identified one additional CUOF incident, which was not identified by Audit Division, where a skeletal fracture resulting from a UOF was documented. A summary of the incident is provided below.

CIID No. A039-03, LERI Head Strike, Rampart Area

Rampart Patrol Division officers responded to a radio call of a vandalism suspect. Upon arrival, the officers observed the suspect seated on a porch talking incoherently into a portable phone held upside down. When approached by the officers, the suspect quickly turned and assumed a fighting stance, yelling profanities at the officers, and challenging them to fight. As one of the officers approached, the suspect raised his arms back in preparation to punch and lunged at the officer. In self-defense, the officer deflected the suspect's arm and delivered a right forearm/elbow distraction strike to the suspect's head. The suspect was admitted to the hospital where it was determined he sustained a fractured left orbital eye socket.

This finding was discussed with Audit Division, who concurred with the OIG, during a post-audit meeting held on July 29, 2004.

VIII. POST AUDIT MEETING WITH AUDIT DIVISION

A post-audit meeting with Audit Division was held on July 29, 2004, to discuss the OIG's preliminary findings. Upon further discussion and clarification, some of the OIG's preliminary findings were retracted or modified. The findings Audit Division concurred with are noted throughout the "Detailed Findings" of this report. Audit Division was provided a spreadsheet detailing the administrative discrepancies between the OIG's matrix answers compared with Audit Division's matrix answers. Additionally, recommendations to modify Audit Division's matrices for future CUOF audits were discussed. Audit Division commented that the matrices used for all their audits are continually revised and the OIG's recommended revisions to the matrix would be considered. A closeout discussion was held with Audit Division on December 17, 2004. Audit Division concurred with the OIG's findings and further noted that the OIG's suggestions will be included in the planning of the next CUOF audit.

IX. RECOMMENDATIONS

None.

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APPENDIX A

Consent Decree Paragraphs

Paragraph 55

Within six months of the effective date of this Agreement, all CUOF administrative investigations, including those formerly conducted by the Robbery-Homicide Division ("RHD") or the Detectives Headquarters Division ("DHD"), shall be conducted by a unit assigned to the Operations-Headquarters Bureau ("OHB"), which unit (the "OHB Unit") shall report directly to the C/O of OHB.

- a) Investigators in this unit shall be detectives, sergeants, or other officers with supervisory rank.
- b) In the organizational structure of the LAPD, the commanding officer of OHB shall not have direct line supervision for the LAPD's geographic bureaus; provided, however, that such C/O may continue to serve on the Operations Committee (or any successor thereto), issue orders applicable to the LAPD (including the geographic bureaus), assume staff responsibilities, as defined in the LAPD manual, and undertake special assignments as determined by the COP.
- c) Investigators in this unit shall be trained in conducting administrative investigations as specified in ¶80.

Paragraph 56

The OHB Unit shall have the capability to "roll out" to all CUOF incidents 24-hours a day. The Department shall require immediate notification to the COP, the OHB Unit, the PC and the Inspector General by the LAPD whenever there is a CUOF. Upon receiving each such notification, an OHB Unit investigator shall promptly respond to the scene of each CUOF and commence his or her investigation. The senior OHB Unit manager present shall have overall command of the crime scene and investigation at the scene where multiple units are present to investigate a CUOF incident; provided, however, that this shall not prevent the COP, the Chief of Staff, the Department Commander or the CDO from assuming command from a junior OHB supervisor or manager when there is a specific need to do so.

Paragraph 57

In addition to administrative investigations and where the facts so warrant, the LAPD shall also conduct a separate criminal investigation of CUOF. The criminal investigation shall not be conducted by the OHB Unit.

APPENDIX A
Consent Decree Paragraphs (Cont.)

Paragraph 58

The LAPD shall continue its policy of notifying the Los Angeles County DA's Office whenever an LAPD officer, on or off-duty, shoots and/or injures any person during the scope and course of employment. In addition, the LAPD shall notify the DA's Office whenever an individual dies while in the custody or control of an LAPD officer or the LAPD, and a UOF by a peace officer may be a proximate cause of the death.

Paragraph 52

The LAPD shall continue to provide cooperation to the DA's Office personnel who arrive on the scene of the incident.

Paragraph 61

All involved officers and witness officers shall be separated immediately after an OIS, and shall remain separated until all such officers have given statements or, in the case of involved officers, declined to give a statement; provided, however, that nothing in this Agreement prevents the Department from compelling a statement or requires the Department to compel a statement in the event that the officer has declined to give a statement. In such a case, all officers shall remain separated until such compelled statement has been given.

Paragraph 62

Managers shall analyze the circumstances surrounding the presence or absence of a supervisor at a: (a), CUOF incident; and, (b), the service of a search warrant. In each case, such analysis shall occur within one week of the occurrence of the incident or service to determine if the supervisor's response to the incident was appropriate. Such supervisory conduct shall be taken into account in each supervisor's annual personnel performance evaluation.

Paragraph 63

The Department shall continue its practice of referring all officers involved in a CUOF resulting in death or the substantial possibility of death (whether on or off duty) to BSS for an evaluation by a licensed mental health professional. The matters discussed in such evaluation shall be strictly confidential and shall not be communicated to other LAPD officers without the consent of the officer evaluated. No such officer shall return to field duty until his or her manager determines that the officer should be returned to field duty upon consultation with BSS.

APPENDIX A
Consent Decree Paragraphs (Cont.)

Paragraph 64

Except as limited or prohibited by applicable state law, when a manager reviews and makes recommendations regarding discipline or non-disciplinary action as a result of a CUOF, the manager will consider the officer's work history, including information contained in the TEAMS II system, and that officer's CUOF history, including a review of the tactics the officer has used in past uses of force.

Paragraph 65

The Department shall continue to require officers to report to the LAPD without delay the officer's own UOF (on the UOF form as revised pursuant to ¶66).

Paragraph 67

The PC shall continue its practice of reviewing all CUOF including all the reports prepared by the COP regarding such incidents and related investigation files. These reports shall be provided to the PC at least 60 days before the running of any statute of limitations that would restrict the imposition of discipline related to such CUOF. Provided, however, if the investigation file has not been completed by this time, the LAPD shall provide the PC with a copy of the underlying file, including all evidence gathered, with a status report of the investigation that includes an explanation of why the investigation has not been completed, a description of the investigative steps still to be completed, and a schedule for the completion of the investigation. The PC shall review whether any administrative investigation was unduly delayed due to a related criminal investigation, and, if so, shall assess the reasons therefor.

Paragraph 69

The Department shall continue to have the UOFRB review all CUOF investigations.

Paragraph 80

In conducting all CUOF investigations ...The LAPD shall, subject to and in conformance with applicable state law, (a), tape record or videotape interviews of complainants, involved officers, and witnesses; (b), whenever practicable and appropriate, and not inconsistent with good investigatory practices such as canvassing a scene, interview complainants and witnesses at sites and times convenient for them, including at their residences or places of business; (c), prohibit group interviews; (e), interview all supervisors with respect to their conduct at the scene during the incident; (f), collect and preserve all appropriate evidence, including canvassing the scene to

APPENDIX A
Consent Decree Paragraphs (Cont.)

locate witnesses where appropriate, with the burden for such collection on the LAPD, not the complainant; and (g), identify and report in writing all inconsistencies in officer and witness interview statements gathered during the investigation.

Paragraph 82

If during the course of any investigation of a CUOF... the investigating officer has reason to believe that misconduct may have occurred other than that alleged by the complainant, the alleged victim of misconduct, or the triggering item or report, the investigating officer must notify a supervisor, and an additional Complaint Form 1.28 investigation of the additional misconduct issue shall be conducted.

Paragraph 83

Subject to restrictions on use of information contained in applicable state law, the OHB Unit investigating CUOF ...shall have access to all information contained in TEAMS II, where such information is relevant and appropriate to such investigations, including training records, Complaint Form 1.28 investigations, discipline histories, and performance evaluations.

Paragraph 128

The LAPD shall conduct regular, periodic audits of stratified random samples of... UOF reports. The review of these documents shall entail, at a minimum, a review for completeness of the information contained and an authenticity review to include an examination for "canned" language, inconsistent information, lack of articulation of the legal basis for the applicable action or other indicia that the information in the document is not authentic or correct. The review shall also assess the information in the documents to determine whether the underlying action was appropriate, legal, and in conformance with LAPD procedures. To the extent possible from a review of such samples, the audit shall also evaluate the supervisory oversight of the applicable incident and any post-incident review.

APPENDIX A
Consent Decree Paragraphs (Cont.)

Paragraph 129

The LAPD shall conduct regular, periodic audits of random samples of (i) all CUOF investigations. These audits shall assess, (a), the timeliness of completing the investigations, and satisfying the requirements of §§67, 69 and 87 where applicable; (b), the completeness of the investigation file, including whether the file contains all appropriate evidence and documentation, or, if evidence is missing, an explanation of why the evidence is missing; (c), a comparison of the officer, complainant, and witness statements with the investigator's summaries thereof, where applicable; and, (d), the adequacy of the investigation, including the application of the standards set forth in §§80 through 86.

Paragraph 135

The Inspector General shall be provided with copies of all reports of specified audits prepared by the LAPD ... within one week of the completion thereof. The Inspector General shall evaluate all such audits to assess their quality, completeness, and findings. The Inspector General shall deliver its evaluations in writing to the PC.

Paragraph 147

The Inspector General shall be notified in a timely manner of all CUOF and be entitled to be present, at his or her discretion, as an observer on all CUOF "roll outs." The Inspector General shall report to the PC in the event that the Inspector General's observations at the scene of an incident raise issues regarding conformance with LAPD policies, procedures, and the requirements of this Agreement.