

**LOS ANGELES POLICE COMMISSION**

**Review of the  
Gang Enforcement Detail Non-Categorical  
Use of Force Reports Audit – Supplemental  
and  
Summaries of Transcribed Statements  
Follow-up Report**



Conducted by

**OFFICE OF THE INSPECTOR GENERAL**

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Inspector General

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**OFFICE OF THE INSPECTOR GENERAL**

**REVIEW OF THE  
GANG ENFORCEMENT DETAIL  
NON-CATEGORICAL USE OF FORCE REPORTS AUDIT – SUPPLEMENTAL  
AND  
SUMMARIES OF STATEMENTS FOLLOW-UP REPORT**

**I. BACKGROUND**

Pursuant to Consent Decree (CD) paragraphs (§§) 128 and 129, Audit Division (AD), Los Angeles Police Department (LAPD or Department) completed an audit of Non-Categorical Use of Force (NCUOF) investigations on December 30, 2003, which included a sample of NCUOF incidents involving officers assigned to Gang Enforcement Details (GED). However, because the gang issues were not segregated in the report, it did not meet the requirements of CD §131. Consent Decree §131 requires that the Department conduct the same audit as required by §128 with respect to NCUOF investigations involving GED officers. Audit Division conducted this audit to comply with CD §131. The audit also evaluated Department compliance with CD §§69, 80c, 80e, 81, and 82, as they pertain to NCUOF investigations.

The audit population was identified during AD's quarterly audits of GED Work Product for the fiscal year 2003/2004.

**II. PURPOSE**

As required by the CD §135, the Office of the Inspector General (OIG) evaluated AD's audit report entitled *Gang Enforcement Detail Non-Categorical Use of Force Reports Audit Supplemental, Fourth Quarter, Fiscal Year 2003/2004*, for quality, completeness, and findings. The audit was completed by AD and signed by the Chief of Police (COP) on June 28, 2004. The OIG received the report on July 2, 2004; within one week of completion as required by the CD §135. The audit was completed according to the schedule set forth on the Department's Annual Audit Plan.

During the course of the OIG's review of the audit noted above, AD completed its review of the tape recordings referenced in the audit, and submitted its findings through a supplemental report entitled *Summaries of Statements Follow-up Report for the NCUOF GED Audit – Supplemental*, which was signed by the COP on August 2, 2004. The Police Commission received a copy of this report on August 10, 2004 and forwarded a copy to the OIG. The OIG reviewed this report in conjunction with the GED NCUOF Audit Supplemental.

**III. PRIOR AUDITS**

This is the first NCUOF audit that focused specifically on GEDs use of force incidents.

#### **IV. OVERVIEW OF THE DEPARTMENT AUDIT**

The audit population was obtained from use of force incidents identified in the four quarterly GED Work Product audits conducted by Audit Division during the 2003/2004 fiscal year. Audit Division identified 23 use of force incidents involving GED and Community Law Enforcement and Recovery (CLEAR) personnel. Of those 23 incidents, Audit Division concluded that five investigations had not completed the Department review and approval cycle and were deselected from the audit population. The resultant 18 reports were evaluated for this audit.

Audit Division utilized eight objectives drawn primarily from CD ¶¶128, 129 and applicable sections of ¶¶69, and 80-86, to evaluate compliance with CD ¶131. In addition, AD used Department policy to supplement CD mandates in order to conduct a comprehensive assessment of NCUOF investigations. The NCUOF investigations were evaluated using eight objectives including: completeness; authenticity; appropriateness of underlying actions; supervisory oversight and post-incident review of the applicable incident; timeliness of the investigation; completeness of the investigation file specifically pertaining to evidence documentation; adequacy of the statements in comparison to investigator's summaries; and, adequacy of the investigation.

Audit Division concluded that the Department was compliant with the stated objectives when at least 95 percent of the reports met the standard established for each objective. Furthermore, AD indicated that the audit population examined in this report was selected to evaluate the Department's compliance as a whole. Consequently, the audit did not assess trends within a single Department entity with any substantive level of confidence.

Audit Division found the Department to be 100% compliant with Objectives No. 1, 2, 3, 4, 5, 6, and 8. Audit Division found that this audit confirmed that the Department's efforts towards improving the quality of use of force investigations is paying off. Furthermore, AD found that NCUOF reports are specifically reflecting that sound investigations are being conducted.

Audit Division identified five tape recordings, but was initially only able to locate two. A determination for compliance with Objective No. 7 was withheld pending retrieval of the three tape recordings. Audit Division reviewed the five tape recordings and providing its findings in the Summaries of Statements Follow-up Report. Audit Division determined that the five tape recordings were 100% compliant with Objective No. 7. Audit Division noted that the issue involving misplaced or unavailable tape recordings has been addressed by the Department through Special Order No. 13, 2004, Non-Categorical Use of Force Reporting – Revised, and does not require further follow-up and/or recommendations. The OIG notes that Special Order No. 13 does remind employees that tapes used for tape recording witness interviews shall be booked with Scientific Investigation Division (SID). The OIG further found that an audit has been scheduled in the Department's Annual Audit Plan, Fiscal Year 2004/2005, for the

geographic Bureaus to conduct an audit of tapes and to determine compliance with Department procedure relative to the booking of such with SID.

## V. METHODOLOGY

In efforts to assess the quality, completeness and findings of AD's audit of GED NCUOF Reports - Supplemental and the Summaries of Statements Follow-up Report, the OIG reviewed the report as well as the working documents that included the matrix, crib sheet and audit plan to ensure the objectives established were sufficient to effectively assess compliance with the mandates of the CD and Department policies and procedure. In efforts to test AD's findings, the OIG randomly selected a sample of 14 of the 18 NCUOF reports audited by Audit Division and reviewed the five tape recordings noted.<sup>1</sup> The OIG utilized the same matrix, work plan, and "crib sheet" utilized by AD to identify any anomalies.

The OIG verified completeness of the GED NCUOF population by requesting a query from the Use of Force Review Section (UOFRS), using the same parameters as AD. The OIG then reviewed the query to identify the uses of force by GED officers and compared the population with AD's identified population. The OIG identified one additional use of force incident involving GED officers that was not identified by AD. Further follow-up revealed that the use of force incident was not listed on the query provided to AD by the UOFRS.<sup>2</sup> The OIG ultimately concluded the GED NCUOF total population was 24 incidents, six of which are still in the review process.<sup>3</sup>

## VI. CONCLUSION

### *Quality*

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

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<sup>1</sup> The OIG utilized a confidence level of 95 percent with an error rate of plus or minus seven percent to select its sample population and included multiple suspects that were involved in a single NCUOF incident.

<sup>2</sup> Audit Division was informed of the additional NCUOF investigation identified by the OIG and they have indicated that all six remaining NCUOF reports will be evaluated and reported in a supplemental GED NCUOF audit.

<sup>3</sup> As of the date of this audit, Audit Division submitted its findings relative to the six additional NCUOF reports, however, due to limited resources the OIG was unable to review and report on those findings through this report.

The OIG concluded that the audit objectives established by AD were sufficient to adequately assess compliance with the CD as well as Department policy and procedure. The matrix questions were designed to effectively test for the audit objectives. Audit Division additionally assessed whether existing policy and procedure is practical or if revision is required, and appropriately assessed for risk management related issues.

The OIG identified three NCUOF investigations (Key Nos. 052400, 052716, and 052756) with administrative deficiencies (See Findings and *Other Related Matters* sections for detailed findings). As it relates to the audit objectives, AD addressed all of the issues, with the exception of the investigation (Key No. 052716) involving possible witnesses that were not interviewed. The investigation for Key No. 052400 involved inaccuracies in the investigator's summaries. Audit Division did not hold this specific investigation out of compliance because the inaccuracies were addressed by the commanding officer (C/O). The OIG concurs and raised this issue in efforts to facilitate training for the investigating supervisor relative to investigative techniques. The issues identified for Key No. 052756 fell outside the scope of the audit but were deemed important enough by the OIG to be included under the *Other Related Matters* section of this report. These findings did not have a bearing on AD's findings, the compliance level presented, or the adjudication of the investigation.

### *Completeness*

For the 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 of the 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 OIG found that AD accurately and completely reported the findings of its audit as it relates to the established audit objectives. The OIG identified and discussed with AD some administrative discrepancies related to matrix issues, confusion regarding the accurate documentation of verbal warnings, responses on matrices not in adherence with crib sheet instructions, and the working documents conflicting with the final audit report. The OIG concluded, however, that these administrative discrepancies did not have a bearing on compliance with the audit objectives nor the investigation. The OIG further notes that none of these issues would have changed the outcome of the NCUOF incident or subsequent arrest.

Based on the foregoing, the OIG found the completeness of AD's audit to be sufficient.

### *Findings*

For the 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 OIG determined the findings provided in AD's report to be clearly and accurately reported.

## **VII. FINDINGS**

The following issues were identified by the OIG and discussed with AD. The issues identified did not adversely affect the quality, completeness, or findings of AD's audit.

### **Objective No. 7 – Accuracy of Investigator Summaries**

Audit Division evaluated compliance with this objective by comparing the tape recording of a witness interview (if available) with the paraphrased statement to ensure it was accurately paraphrased.

The OIG found that AD adequately assessed the NUOF investigation noted below for compliance with the CD and Department policy and procedure. However, the OIG identified some administrative deficiencies in the investigation that merit additional training for the investigating supervisor relative to investigative techniques. The administrative issues identified by the OIG were discussed with AD. The OIG and AD concurred that the issues needed further follow-up, but did not have a bearing on the ultimate determination made by AD as it relates to compliance with this objective.

**UOF Key No. 052400** – This incident involved a detention of four suspects for illegal gambling and the investigation for the use of force against one of the suspect. One of the two officers involved in the use of force indicated that he was chasing the suspect across the street toward the sidewalk when the suspect lost his footing and fell, striking his face on the sidewalk. After quickly regaining his balance, the suspect tried to continue to run but lunged face first into a wrought iron fence. The officer further stated the suspect continued to struggle and that he straddled the suspect, who was on his side, while his partner placed his knees on the suspect's left shoulder. The suspect continued to resist by attempting to punch the officer in the face with his left fist. The officer then delivered six to nine closed fist distraction strikes with both hands to the suspect's upper torso.

This investigation contained inconsistencies with the witness interviews that were not addressed by the Investigating Supervisor (I/S), including: an allegation that the officer(s) "choked" the suspect; the partner officer's NCUOF statement indicates that the suspect fell on the sidewalk, and did not state anything related to the suspect lunging face first into the wrought iron fence; the partner officer's statement further indicates that he was helping hold the first suspect down with his knees while watching the other suspects, which is inconsistent with the arrest

report (authored by this officer), that states that the officer was “about to kneel” on the suspect when he had to draw his weapon; and, the partner officer’s statement does not mention the distraction strikes, which is inconsistent with the arrest report, authored by this officer, which indicates that his partner used distraction strikes “aimed” toward the suspect’s upper front and back torso. The arrest report does not indicate where the blows landed.

The OIG believes that the I/S did not fully attempt to clarify the witness inconsistencies or the “choking” allegation with the suspect. The I/S made a determination that the suspect was not credible because he/she “provided various versions of the incident.” Based on a review of the tape recording of the suspect, the OIG does not believe that the suspect provided various versions of the incident. The OIG believes that had the I/S fully clarified the suspect’s comments, the interpretation issues would not have been in question.

Audit Division believes that the I/S could have addressed the inconsistencies more thoroughly however, believes that the watch commander and commanding officer (C/O) addressed all of the inconsistencies, including the “choking” allegation in the insight portion of the NCUOF investigation.

The OIG forwarded correspondence to the Commanding Officer, Operations-South Bureau, for appropriate action. Correspondence was received from the C/O, 77<sup>th</sup> Street Area and Professional Standards Bureau, indicating that the I/S will be provided with additional training, which will be documented on a Comment Sheet. The OIG and AD concur with the resolution of this matter.<sup>4</sup>

### **Objective No. 8- Adequacy of the Investigation**

Audit Division assessed compliance with this objective by examining the inclusion or exclusion of the criteria relative to group interviews; interviews of at-scene supervisors with respect to conduct at the scene of the use of force; whether the investigation was conducted by an uninvolved supervisor; whether the scene was canvassed for witnesses and evidence; and, whether all allegations of misconduct were investigated.

The following provides the OIG’s findings related to this objective that were not identified by AD.

**UOF Key No. 052716** – The OIG does not concur with Audit Division’s assessment that all Department witnesses were interviewed regarding this use of force. The OIG found that the Arrest Report indicates that an air unit was overhead and provided light throughout the incident. The air unit officers’ names were provided in the Arrest Report yet the officers were not interviewed to

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<sup>4</sup> Of note, Special Order No. 13, 2004, will require that NCUOF investigations related to excessive force be tape recorded and that the tape recordings be transcribed and not summarized.

determine what, if anything, they observed. Audit Division concurs with the  
OIG's finding. The OIG and AD believe, however, that in totality, the evidence  
supports the adjudication of this investigation.

### **VIII. OTHER RELATED MATTERS**

Audit Division correctly documented that all evidence related to the use of force was  
seized and booked. The OIG noted, however, that the NCUOF investigation listed below  
included a statement by an uninvolved officer that made reference to specific items being  
recovered that were not included in the arrest and property reports and did not include  
documentation to explain missing evidence. This issue was not addressed by AD because  
it believed was outside the scope of the audit.

**UOF Key No. 052756** – The OIG noted that one of the officer's statements  
indicated that he/she recovered "two martial arts fighting sickles, nun chaks (sic)  
and a paint ball pistol from inside the closet, adjacent to where (the suspect) was  
hiding, and well within his reach." The OIG found that, other than in the officer's  
statement, these items were not mentioned anywhere else in the NCUOF  
investigation or the corresponding arrest/property reports.

Audit Division concluded that because the items (nuchaku and paint ball pistol)  
were not used in a crime there would be little reason, or legality, to remove the  
items and book them. Audit Division acknowledged that the report was poorly  
written but believed that no further clarification was necessary to address the  
inconsistencies in the arrest documents.

The OIG followed-up with the Area involved and determined that although the  
officer's statement in the NCUOF investigation indicates that the items were  
recovered, they were in fact not recovered by the officer and were left at the  
residence. At the request of the OIG, the Area completed a Follow-up report to  
document the discrepancy in the NCUOF investigation.

It should be noted that California Penal Code (CPC) Section (§) 12020 (a) (1),  
states that possession of a nunchaku is a criminal offense (misdemeanor or  
felony), excepting regulated self defense schools. In this instance, the OIG  
believes, at a minimum, the item(s) should have been seized as contraband and/or  
potentially been a basis for criminal charges for the possession. Audit Division  
concurs with the OIG.

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**IX. POST AUDIT MEETING**

A closeout meeting was held with AD on December 6, 2004. Audit Division concurs with the OIG's assessment provided in this report.

**X. ACTIONS TAKEN**

- A Follow-up Investigation, Form 3.14, was completed by the Foothill Area to document the location of the recovered evidence noted in UOF Key 052756.
- Correspondence was forwarded to the Commanding Officer, Operations-South Bureau, concerning discrepancies within UOF Key No. 52400.