

INTRADEPARTMENTAL CORRESPONDENCE

July 13, 2015
14.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: NON-CATEGORICAL USE OF FORCE INVESTIGATIONS AUDIT
(AD NO. 15-003)

RECOMMENDED ACTIONS

1. That the Board of Police Commissioners REVIEW and APPROVE the attached Non-Categorical Use of Force Investigations Audit.
2. That the Board of Police Commissioners REVIEW and APPROVE the attached Executive Summary thereto.

DISCUSSION

Pursuant to the Department's Annual Audit Plan, Audit Division conducted the Non-Categorical Use of Force Investigations Audit to assess conformance with Department policies and procedures as they relate to the evaluation, review, and oversight of these investigations.

If you have any questions, please contact Arif Alikhan, Director, Office of Constitutional Policing and Policy, at (213) 486-8730.

Respectfully,



CHARLIE BECK
Chief of Police

Attachment

LOS ANGELES POLICE DEPARTMENT
*NON-CATEGORICAL USE OF FORCE
INVESTIGATIONS AUDIT*

(AD No. 15-003)



Conducted by
AUDIT DIVISION

CHARLIE BECK
Chief of Police

May 2015

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EXECUTIVE SUMMARY
NON-CATEGORICAL USE OF FORCE INVESTIGATIONS AUDIT
Conducted by
Audit Division
Third Quarter, Fiscal Year 2014/15

PURPOSE

In accordance with the Los Angeles Police Department (Department) Annual Audit Plan for fiscal year 2014/15, Audit Division (AD) conducted the Non-Categorical Use of Force (NCUOF) Investigations Audit to assess compliance of NCUOF investigations with Department policies and procedures as they relate to the evaluation, review and oversight of NCUOF investigations.

SUMMARY OF AUDIT FINDINGS

The Department had a 95 percent or higher percentage standard in 18 of 20 objectives/sub-objectives. The following two objectives reflected less than 95 percent performance standard:

- Post-Incident Supervisory Review (89%); and,
- Photographs of Employee's Injuries (93%).

A continued emphasis of improvement in these two areas will assist in providing commanding officers with the necessary information to thoroughly evaluate and ensure that the Department's policies and procedures governing NCUOFs are complied with. The audit measured and reported 20 objectives and sub-objectives. Table No. 1 summarizes the Department's standards by objective and provides a comparison to the prior audit.

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Table No. 1 – Summary of Audit Findings and Comparison to Prior Year’s Audit

Obj. No.	Audit Objective	2012/13		2014/15		Percent Change
		Standards Met	Percentage	Standards Met	Percentage	
1	Consistency of Investigations	37/37	100%	37/37	100%	0%
2	Underlying Actions	37/37	100%	37/37	100%	0%
3	Supervisory Oversight					
3(a)	At-Scene Supervision	10/10	100%	9/9	100%	0%
3(b)	Post-Incident Supervisory Review	34/37	92%	33/37	89%	-3%
3(c)	Watch Commander’s Insight	36/37	97%	37/37	100%	+3%
3(d)	Approval of Reports by the Investigating Supervisor	37/37	100%	35/36	97%	-3%
4	Evaluation of Investigations					
4(a)	Interviewing All Department Employees, Suspects and Witnesses	34/37	92%	35/37	95%	+3%
4(b)	Inclusion of Audio-Recordings	31/32	97%	28/28	100%	+3%
5	Management Oversight					
5(a)	Review of Investigation at Area/division and Bureau Levels	35/37	95%	37/37	100%	+5%
5(b)	Area Commanding Officer’s 14-Day Review of the Investigation	33/37	89%	35/37	95%	+6%
6	Review of Appropriate Evidence and Documentation	36/37	97%	36/37	97%	0%
7	Evaluation of Interviews and Statements					
7(a)	Addressing Substantial Statement Conflicts	37/37	100%	22/22	100%	0%
7(b)	Consistency between Summarized Statement and Audio-Recording	32/32	100%	25/25	100%	0%
8	Adequacy of the Investigation					
8(a)	Prohibiting Group Interviews	32/37	86%	37/37	100%	+14%
8(b)	Interviewing At-Scene Supervisors	9/10	90%	9/9	100%	+10%
8(c)	Collecting and Preserving Evidence	36/37	97%	10/10	100%	+3%
8(d)	Canvassing the Scene to Locate Witnesses	37/37	100%	37/37	100%	0%
8(e)	Photographs of Department Employee’s Injuries	16/17	94%	14/15	93%	-1%
9	Reporting Allegations of Misconduct	7/7	100%	9/9	100%	0%
10	Notifying the Department without Delay	37/37	100%	37/37	100%	0%

ACTIONS TAKEN/MANAGEMENT’S RESPONSE

On March 5, 2015, AD met with and provided a copy of the audit report to the Acting Commanding Officer (C/O), Use of Force Review Division, and discussed the audit findings. The C/O, Use of Force Review Division expressed general agreement with the audit findings.

A copy of the audit report was also provided to the Assistant to the Director, Office of Operations, who also expressed general agreement with the audit findings.

NON-CATEGORICAL USE OF FORCE INVESTIGATIONS AUDIT

Conducted by

Audit Division

Third Quarter, Fiscal Year 2014/15

PURPOSE

In accordance with the Los Angeles Police Department (Department) Annual Audit Plan for fiscal year 2014/15, Audit Division (AD) conducted the Non-Categorical Use of Force (NCUOF) Investigations Audit to assess compliance of NCUOF investigations with Department policies and procedures as they relate to the evaluation, review and oversight of NCUOF investigations.

Audit Division conducted this performance audit under the guidance of generally accepted government auditing standards, specifically pertaining to performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. Audit Division determined that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

PRIOR AUDITS

Results from the prior NCUOF investigations audit (fiscal year 2012/13) indicated the Department did not meet the standards (by at least 95%) with regard to the following objectives:

- Post-Incident Supervisory Review (92%);
- Interviewing All Department Employees, Suspects and Witnesses (92%);
- Area Commanding Officer's (C/O's) 14-Day review of the Investigation (89%);
- Prohibiting Group Interviews (86%);
- Interviewing At-Scene Supervisors (90%); and,
- Photographs of Department Employee's Injuries (94%).

The audit determined that there were no systematic problems; therefore, no recommendations were made.

METHODOLOGY

Background

Non-Categorical Use of Force investigations are classified into two categories: Level I and II. Level I investigations involve one or more of the following:

1. An allegation of unauthorized force is made regarding the force used by a Department employee(s);
2. The force used results in a serious injury that does not rise to the level of a Categorical Use of Force incident;
3. The injuries to the person upon whom force was used are inconsistent with the amount or type of force reported by involved Department employee(s); and,
4. Accounts of the incident provided by witnesses and/or the subject of the use of force substantially conflict with the involved employee(s') account.

All other NCUOF investigations are classified as Level II. Level I investigations, unlike Level II, require all subject and public witness interviews be tape-recorded, or justification shall be provided.

For this audit, only Level I investigations were selected for examination to determine compliance with Department policies and procedure.

Audit Population and Period

Audit Division queried all Level I NCUOF investigations closed between May 1, 2014, and September 30, 2014, and identified 76 investigations. A statistically valid sample was obtained which consisted of 37 investigations. The audit measured 20 objectives and sub-objectives.

SUMMARY OF FINDINGS

Table No. 1 on the following page, summarizes the Department's standards by objective and provides a comparison to the prior audit.

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Table No. 1 – Summary of Audit Findings and Comparisons to Prior Year’s Audit

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DETAILED FINDINGS

Objective No. 1 – Consistency of Investigations

Criteria

Department Manual Sections 4/245.10 and 4/245.12, set the minimum standards for evaluating the consistency of NCUOF investigations.

Department Manual Section 4/245.10, Reporting A Non-Categorical Use of Force Incident, states, “*Supervisor’s Responsibility. When a Non-Categorical use of force incident occurs, an uninvolved supervisor from the employee’s command or from the nearest Area when either the employee’s command is closed or the employee’s supervisor is not available to respond, shall be assigned to conduct the administrative investigation.*”

“Note: An involved supervisor is defined as a supervisor who provided guidance or direction during the use of force, or participated in on-scene pre-planning or directing related to the incident. A supervisor who participated in or witnessed the use of force, planned the event, or was present at a forced blood withdrawal from a suspect shall not investigate the incident.

The supervisor assigned to conduct the investigation shall:

- *Respond and conduct an on-scene investigation;*

Exception: When an on-scene investigation is impractical due to exigent circumstances, such as a hostile group or an off-duty employee’s distance from the City, the supervisor shall consult with his/her watch commander or officer in charge and arrange for a reasonable alternative.

- *Collect and preserve all appropriate evidence and canvas the scene to locate witnesses, when appropriate;*
- *Conduct individual interviews with the subject of the use of force, witnesses, and all Department employees who either witnessed and/or were involved in the incident (group interviews are prohibited);*
- *Determine an initial classification of the Non-Categorical use of force as either a Level I or Level II incident;*
- *Identify and document any inconsistencies from interviews conducted;*
- *Interview all involved supervisors regarding their actions taken;*
- *Review any related crime and/or arrest report or Employee’s Report, Form 15.07.00, after it has been approved by the watch commander/OIC but prior to completing the use of force investigation, to ensure that the incident as depicted in the related report(s) is consistent with the use of force investigation. A Follow-up Investigation, Form 03.14.00, may be used to make any necessary corrections to the related report or to provide additional information;*
- *Complete a Non-Categorical Use of Force Report, Form 01.67.05, including an attached narrative; and,*
- *Forward the completed Non-Categorical Use of Force Report along with all related reports, to the watch commander/officer in charge. Generally, a Non-Categorical Use of Force Report should be completed before the investigating supervisor's end of watch. However, complex incidents may require additional time not to exceed two calendar days following the incident.*

Watch Commander’s Responsibility. *A watch commander/Officer In Charge (OIC) reviewing a Non-Categorical use of force investigation shall document his/her insight on a Non-Categorical Use of Force Internal Process Report, Form 01.67.04. As part of this evaluation, watch commanders/OICs shall:*

- *Evaluate whether or not the amount of force used was reasonable and consistent with actions reported by the involved Department employee(s), ensuring that all relevant tactical, use of force, and policy issues are addressed. The watch commander/OIC shall evaluate the force that was used, not the force options that could have been considered;*

- *Ensure that all supervisors are interviewed regarding their conduct at the scene during the incident; and,*
- *Evaluate the actions of each of these supervisors.”*

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, **“WITNESS STATEMENT(S).** *Supervisors shall interview the subject of force, witnesses, and all Department employees who either witnessed and/or were involved in the incident.*

A brief written summary of the statement provided by the subject of the use of force and/or any witness is only required under this heading if:

- *The interview was not tape-recorded (not applicable to Department employees); or,*
- *The person’s account of the use of force is in substantial conflict with the involved employee(s) account.”*

“Consistent Statements. *Statements provided by witnessing Department employees that are consistent with events as depicted in the related report shall be noted. Likewise, if statements provided by non-Department employee witnesses are consistent, this similarly shall be documented.”*

“INJURIES/MEDICAL TREATMENT. *Document all visible and complained of injuries, including any medical treatment provided.”*

Audit Procedures

This audit evaluated the investigations for inconsistent information within the investigation and associated documents. The consistency of information throughout the investigation validated its authenticity.

Inconsistent information included:

- Inconsistencies in identifying any officer(s) and/or supervisor(s) who used force and/or directed the use of force;
- Inconsistencies in the type of force used; and,
- Inconsistencies in injuries sustained as a result of the use of force.

Investigations that did not contain inconsistencies, or contained inconsistencies that were addressed during the review process, met the standard for this objective.¹

Findings

Each (100%) of the 37 investigations met the standard for this objective.

¹Inconsistencies identified between tape-recorded interviews and the investigator’s summaries of the interviews were evaluated in Objective No. 7(a) – Addressing Substantial Statement Conflicts.

Objective No. 2 – Underlying Actions

Criteria

Department Manual Sections 1/556.10 and 4/245.12 describe how NCUOF investigations are to be reviewed to assess the information in the documents to determine whether the underlying action was appropriate, legal and in conformance with Department procedures.

Department Manual Section 1/556.10, Policy on the Use of Force, states, “**Objectively Reasonable.** *The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See Graham v. Connor, 490 U.S. 386 (1989). Graham states in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.” The force must be reasonable under the circumstances known to the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.*”

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, “**Verbal Warning Requirements.** *Department employees are, in certain circumstances, required to provide a verbal warning prior to the use of less-lethal force. This section shall be used to document the name of the employee giving the warning and what was said. Likewise, in cases where a warning was required but not given, supervisors shall provide an explanation here. If no warning was required, no documentation is necessary.*”

Audit Procedures

Each investigation was reviewed to determine whether the underlying actions of the personnel involved in the use of force incident were appropriate, legal, and in conformance with Department procedures. Additionally, if less-lethal force was used, was a verbal warning given prior to the deployment.

Investigations for which the underlying actions of the personnel involved in the use of force incident were appropriate, legal, and in conformance with Department procedures, met the standard for this objective.

Findings

Each (100%) of the 37 investigations met the standard for this objective.

Objective No. 3 – Supervisory Oversight

Department Manual Sections 3/793.40, 4/245.10, and 4/245.12, set the minimum standards for the evaluation of supervisory oversight during a NCUOF investigation.

The audit measured the NCUOF investigations against these standards, and the results are reported below in Objectives Nos. 3 (a-d).

Objective No. 3(a) – At-Scene Supervision

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, *“As part of this evaluation, watch commanders/OICs shall:”*

- *“Ensure that all supervisors are interviewed regarding their conduct at the scene during the incident; and,*
- *Evaluate the actions of each of these supervisors.”*

Audit Procedures

Each investigation was reviewed to determine if a supervisor at the scene during the incident, directed, witnessed, or participated in the incident. If so, the investigation was evaluated to determine whether supervisory actions were within Department policy. Investigations that documented an at-scene supervisor during the incident, directed, witnessed or participated and acted within Department policy, met the standard for this objective. Nine investigations were applicable for this objective.

Findings

Each (100%) of the nine investigations met the standard for this objective.

Objective No. 3(b) – Post-Incident Supervisory Review

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, *“An employee who becomes involved in a reportable Non-Categorical use of force incident shall:”*

- *“Report the full details of the use of force incident in the related Department arrest or crime report;*
- *Use an Employee's Report, Form 15.07.00, to report the full details of the use of force incident when a crime or arrest report is **not** required;”*

*“When a Non-Categorical use of force incident occurs, an **uninvolved** supervisor from the employee’s command or from the nearest Area when either the employee’s command is closed or the employee’s supervisor is not available to respond, shall be assigned to conduct the administrative investigation.*

Generally, a supervisor who witnessed a Non-Categorical use of force incident should not conduct a use of force investigation. However, the watch commander may make exceptions on a case-by-case basis, based on exceptional operational needs.”

“Under no circumstances shall a supervisor involved in a use of force incident be permitted to conduct the investigation.”

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states,
“Document all visible and complained of injuries, including any medical treatment provided.”

“If a signed Authorization to Release Medical Information Form is obtained, Department personnel shall collect the necessary injury and medical information in accordance with Manual Section 4/648.”

*“Federal law now limits access to an individual’s medical history and treatment information. Therefore, if a signed Authorization to Release Medical Information Form is **not** obtained, supervisors **shall not ask medical personnel** for injury and treatment information pertaining to an individual upon whom force was used.”*

“Due to potential criminal and civil liability issues, Department employees shall not accept any medical documentation regarding the subject of the use of force unless a signed Authorization to Release Medical Information Form is obtained.”

Department Manual Section 3/793.40, Recordation of Training, states, *“In cases where formal training is directed as the result of a use of force review (i.e., any training provided by Personnel and Training Bureau, Training Division shall enter all completed training into the Training Evaluation and Management System II (TEAMS II). All other forms of directed training (e.g., divisional training) shall be entered into TEAMS II by the employee’s Area/division.”*

Audit Procedures

Each investigation was examined for supervisory review of the incident, which included:

- Reportable NCUOF incidents documented on the appropriate Department report or form;
- Witnessing supervisors did not conduct the use of force investigation without documenting justification for exceptional operational needs;
- Involved supervisors did not conduct the use of force investigation;
- Injuries sustained by suspect(s) as a result of the use of force were properly documented;
- Medical treatment was provided to recipients of uses of force in accordance with Department policy;

- Requests for signed medical release forms were documented when suspects received medical treatment and included in the investigation;
- Medical information was obtained in accordance with Department policy and procedures; and,
- The Internal Process Report (IPR) indicated that all recommended training was provided and training was entered into Training Evaluation and Management System (TEAMS II).

Findings

Thirty-three (89%) of the 37 investigations met the standard for this objective. The four investigations did not meet the standards for the reasons listed below:

Control No. 2016822 – The recommended training was not documented in the employee’s TEAMS II report.

Control No. 2017082 – The recommended training was not documented in the employee’s TEAMS II report.

Control No. 2017160 – The recommended training was not documented in the employee’s TEAMS II report.

Control No. 2017412 – The recommended training was not documented in the employee’s TEAMS II report.

Objective No. 3(c) – Watch Commander’s Insight

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, “*A watch commander/Officer In Charge (OIC) reviewing a Non-Categorical use of force investigation shall document his/her insight on a Non-Categorical Use of Force Internal Process Report Form 01.67. As part of this evaluation, watch commanders/OICs shall:*

- *Evaluate whether or not the amount of force used was reasonable and consistent with actions reported by the involved Department employee(s), ensuring that all relevant tactical, use of force, and policy issues are addressed. The watch commander/OIC shall evaluate the force that was used, not the force options that could have been considered;*
- *Ensure that all supervisors are interviewed regarding their conduct at the scene during the incident; and,*
- *Evaluate the actions of each of these supervisors.”*

Audit Procedures

Each investigation was reviewed to determine if the watch commander’s insight evaluated each officer’s use of force, and determine if it was reasonable and consistent based on the actions of

the suspect. Further, each watch commander's insight was reviewed to determine if an evaluation was made regarding the conduct of the supervisor(s) at scene during the incident.

Investigations that contained a "watch commander's insight" which evaluated: the type of force used by each officer, whether the type of force used was reasonable and consistent based on the actions of the suspect, and the conduct of each supervisor, met the standard for this objective.

Findings

Each (100%) of the 37 investigations met the standard for this objective.

Objective No. 3(d) – Approval of Reports by the Investigating Supervisor

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, "*Non-Categorical use of force investigations and any related report(s) (i.e., the crime and/or arrest report or Form 15.07.00), shall be approved by an on-duty watch commander/OIC or designee of supervisory rank. The supervisor who conducted the Non-Categorical use of force investigation shall not approve the Non-Categorical Use of Force Report or the related report(s).*"

Audit Procedures

Each investigation was reviewed to determine if the investigating supervisor approved the primary report or any related reports.

Investigations that contained primary or related reports that were not approved by the investigating supervisor met the standard for this objective. Thirty-six investigations were applicable for this objective.

Findings

Thirty-five (97%) of the 36 investigations contained primary and related reports that were not approved by the investigating supervisor and therefore, met the standard for this objective.

The investigation that did not meet the standard for the reason listed below:

Control No. 2016106 – The primary report was approved by the investigating supervisor.

Objective No. 4 – Evaluation of Investigations

Department Manual Section 4/245.10, sets the minimum standards for evaluating a supervisor's investigation of a NCUOF. The audit measured the NCUOF investigations against these standards and the results are reported below in Objectives Nos. 4 (a-b).

Objective No. 4(a) – Interviewing All Department Employees, Suspects and Witnesses

Criteria

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, *“Supervisors shall interview the subject of force, witnesses, and all Department employees who either witnessed and/or were involved in the incident.”*

“Supervisors investigating a Level I incident shall tape record statements from the subject of the use of force and all non-Department employee witnesses.”

Audit Procedures

Each investigation was reviewed to determine if:

- Interviews with all suspects and/or non-Department witnesses were tape-recorded for all use of force incidents;
- Interviews with all suspects and/or non-Department witnesses that were not tape-recorded included a written summary of the person’s statement; and,
- All Department employees, suspects, and witnesses were identified and interviewed.

Investigations that met the above criteria met the standard for this objective.

Findings

Thirty-five (95%) of the 37 investigations met the standard for this objective. The two investigations did not meet the standards for the reasons listed below:

Control No. 2016910 – The interviews with four witnesses were not tape-recorded and no justification was provided.

Control No. 2017412 – Two Department employees were at-scene during the use force and were not included as witnesses and no justification was provided.

Objective No. 4(b) – Inclusion of Audio-Recordings

Criteria

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, *“Supervisors investigating a Level I incident shall tape record statements from the subject of the use of force and all non-Department employee witnesses.”*

Audit Procedures

Each investigation was reviewed to determine whether it included the required recordings for the associated interviews. Investigations that contained the required tape-recordings met the standard for this objective. Twenty-eight investigations were applicable for this objective.

Findings

Each (100%) of the 28 investigations met the standard for this objective.

Objective No. 5 – Management Oversight

Department Manual Sections 3/793.05 and 3/793.10, detail the minimum standards for evaluating management oversight of investigations. The audit measured the NCUOF investigations against these standards and the results are reported in Objectives Nos. 5(a-b).

Objective No. 5(a) – Review of Investigation at Area/division and Bureau Levels

Criteria

Department Manual Section 3/793, Adjudicating a Non-Categorical Use of Force Incident, outlines the Area/division and bureau C/O's responsibilities regarding reviews of investigations. Specifically, Department Manual Section 3/793.05, states, *"Upon receipt of a Non-Categorical use of force investigation, the commanding officer shall:"*

- *"Review all reports and make a recommendation on the disposition;*
- *Sign the Use of Force Internal Process Report, Form 01.67.04;"*

Department Manual Section 3/793.10, states, *"Upon receipt of a Non-Categorical use of force investigation, the bureau commanding officer shall:"*

- *"Review all reports and make a recommendation on the disposition;*
- *Sign the IPR;"*

Audit Procedures

Each investigation was evaluated to determine whether management conducted a review of the investigation. Management's review of the investigation was defined as:

- The Area/division C/O's review of the use of force history for each involved officer; and,
- The Area/division and bureau C/O's review of each NCUOF investigation.

Investigations where entries were made that indicated Area/division and Bureau C/O's completed their review, met the standard for this objective.

Findings

Each (100%) of the 37 investigations met the standard for this objective.

Objective No. 5(b) – Area Commanding Officer’s 14-Day Review of the Investigation

Criteria

Department Manual Section 3/793.05, Commanding Officer’s Responsibility, states, “*Non-Categorical use of force investigations shall be reviewed by Area/division commanding officers or the acting commanding officer within 14 calendar days of the incident. Investigations not reviewed within the 14-day time frame require a written explanation on the Non-Categorical Use of Force Internal Process Report (IPR).*”

Audit Procedures

Each investigation was examined to determine if it was reviewed by the Area/division C/O or the acting C/O (or supervisory proxy) within the 14-day review period, or justification was provided.

Investigations that were reviewed by a C/O or the acting C/O (or supervisory proxy) within the 14-day period met the standard for this objective.

Findings

Thirty-five (95%) of the 37 investigations met the standard for this objective. The two investigations did not meet the standards for the reasons listed below:

Control No. 2016231 – The C/O review was conducted by a non-supervisory Department employee.

Control No. 2016416 – The C/O review was conducted by a non-supervisory Department employee.

Objective No. 6 – Review of Appropriate Evidence and Documentation

Criteria

Department Manual Sections 4/245.10 and 4/245.12, set the minimum standards for the requirement to collect and preserve appropriate evidence.

Department Manual Section 4/245.10, on Reporting a Non-Categorical Use of Force Incident, states, “*The supervisor assigned to conduct the investigation shall:*”

- “*Collect and preserve all appropriate evidence and canvass the scene to locate witnesses, when appropriate;*”

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, *“Photographs should be taken and included in all Non-Categorical use of force (NCUOF) investigations. If a photograph is impractical (e.g., the subject of the use of force refuses to be photographed, etc.), an explanation shall be documented in the NCUOF report.”*

“Investigating supervisors are to ensure photographs are taken of the following:

- The subject of the use of force to document visible injury and any complained injury locations.”*

Audit Procedures

Each investigation was reviewed to determine if appropriate evidence related to the use of force investigation was included. Evidence included photographs of suspect injuries or lack thereof. Investigations that included appropriate evidence, or provided justification for not photographing the injury, met the standard for this objective.

Findings

Thirty-six (97%) of the 37 investigations contained appropriate evidence and therefore, met the standard for this objective. The investigation that did not meet the standard for the reason listed below:

Control No. 2017072 – There was no evidence that the suspect’s injury was photographed and no justification was provided.

Objective No. 7 – Evaluation of Interviews and Statements

Department Manual Section 4/245.12, details the minimum standards for evaluating conflicts and/or discrepancies within the investigations when comparing statements provided by a witness or subject of the use of force and statements provided by involved Department employee(s). The audit measured the NCUOF investigations against these standards and the results are reported below in Objectives Nos. 7(a-b).

Objective No. 7(a) – Addressing Substantial Statement Conflicts

Criteria

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, *“**INVESTIGATING SUPERVISOR’S NOTES.** Supervisors shall use this heading to address substantial conflicts and/or discrepancies between statements provided by a witness or the subject of the use of force and statements provided by involved Department employees.”*

Audit Procedures

Each investigation was reviewed for documentation of any substantial conflict in statements when comparing recorded interviews and/or written statements to primary reports.

Investigations that did not contain conflicting statements of a witness(s) or subject(s) regarding a use of force and statements provided by the involved Department employee, met the standard for this objective. Investigations that adequately addressed any identified conflicts in statements also met the standard for this objective. Twenty-two investigations were applicable for this objective.

Findings

Each (100%) of the 22 investigations, met the standard for this objective.

Objective No. 7(b) – Consistency between Summarized Statement and Audio-Recording

Criteria

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, “**WITNESS STATEMENT(S)**. Supervisors shall interview the subject of force, witnesses, and all Department employees who either witnessed and/or were involved in the incident.

A brief written summary of the statement provided by the subject of the use of force and/or any witness is only required under this heading if:

- *The interview was not tape-recorded (not applicable to Department employees); or,*
- *The person’s account of the use of force is in substantial conflict with the involved employee(s) account.”*

Audit Procedures

Each recorded statement from the subject and witnesses were compared with the investigating supervisor’s brief summary to determine whether the investigator documented inconsistencies from the recorded interviews. Investigations for which the investigator documented inconsistencies, or for which there were no inconsistencies, met the standard for this objective. Twenty-five investigations were applicable for this objective.

Findings

Each (100%) of the 25 investigations, met the standard for this objective.

Objective No. 8 – Adequacy of the Investigation

The audit assessed the adequacy of the investigation including the application of the standards set forth in Department Manual Sections 4/245.10, 4/245.11 and 4/245.12. The audit measured the investigations against these standards and the results are reported below in Objectives Nos. 8 (a-e).

Objective No. 8(a) – Prohibiting Group Interviews

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, *“The supervisor assigned to the investigation shall:”*

- *“Conduct individual interviews with the subject of the use of force, witnesses, and all Department employees who either witnessed and/or were involved in the incident (group interviews are prohibited);”*

Audit Procedures

Each investigation was reviewed to determine if there was an indication that a group interview was conducted.

Investigations for which there was no indication that a group interview was conducted, or for which justification was provided, met the standard for this objective.

Findings

Each (100%) of the 37 investigations, met the standards for this objective.

Objective No. 8(b) – Interviewing At-Scene Supervisors

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, requires, *“As part of this evaluation, watch commanders/OICs shall:”*

- *“Ensure that all supervisors are interviewed regarding their conduct at the scene during the incident;”*

Audit Procedures

Each investigation was reviewed to determine if a supervisor was at-scene during the incident. For investigations involving an at-scene supervisor who witnessed, directed, or participated in the use of force, an evaluation was conducted to determine if the supervisor was interviewed regarding their conduct during the incident.

Investigations that provided documentation that at-scene supervisors who witnessed, directed, or participated in the use of force were interviewed regarding their conduct, met the standard for this objective. Nine investigations were applicable for this objective.

Findings

Each (100%) of the nine investigations, met the standard for this objective.

Objective No. 8(c) – Collecting and Preserving Evidence

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, *“The supervisor assigned to conduct the investigation shall:”*

- *“Collect and preserve all appropriate evidence and canvass the scene to locate witnesses, when appropriate;”*

Audit Procedures

Each investigation was reviewed to determine if all physical evidence related to the use of force was documented consistently; collected and preserved according to Department policy; and when the investigation involved a Digital In-Car Video System, the video was included as evidence and reviewed.

Investigations that provided documentation that all physical evidence related to the use of force was documented consistently; collected and preserved according to Department policy; and when the investigation involved a Digital In-Car Video System, the video was included as evidence and reviewed, met the standard for this objective. Ten investigations were applicable for this objective.

Findings

Each (100%) of the ten investigations met the standard for this objective.

Objective No. 8(d) – Canvassing the Scene to Locate Witnesses

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, *“The supervisor assigned to conduct the investigation shall:”*

- *“Collect and preserve all appropriate evidence and canvass the scene to locate witnesses, when appropriate;”*

Further, Special Order No. 13, 2004, states, *“Supervisors shall document their efforts to canvass the area and locate evidence and witnesses, to include the scope of the search and the results of such efforts. Additionally, if no witnesses can be identified or located, an explanation shall be provided in this section.”*

Audit Procedures

Each investigation was reviewed for evidence of canvassing for witnesses. “Canvassing” was defined as searching the area for witnesses and evidence.

Investigations that documented canvassing occurred when appropriate; described the scope of the area canvassed; and outlined the results, or provided an explanation as to why no witnesses/evidence were located, met the standard for this objective.

Findings

Each (100%) of the 37 investigations met the standard for this objective.

Objective No. 8(e) – Photographs of Department Employee’s Injuries

Criteria

Department Manual Section 4/245.12, Completing the Narrative – Level I Incident, states, *“Investigating supervisors are to ensure photographs are taken of the following:”*

- *“Department employees to document visible injury and any complained of injury location resulting from the NCUOF incident or any evidence such as damaged equipment or torn uniform items;”*
- *“Additional photographs may be taken at the discretion of the investigating supervisor for evidentiary purposes. This includes cases where a criminal filing may be sought, such as battery against a police officer.”*

Audit Procedures

Investigations were reviewed to determine if they contained photographs of injuries of Department employees relevant to the use of force or when a filing for a crime against an officer was sought and the involved Department employee sustained injury.

Investigations that contained photographs of injuries of Department employees relevant to the use of force or when a filing for a crime against an officer was sought and the involved Department employee sustained injury, met the standard for this objective. Fifteen investigations were applicable for this objective.

Findings

Fourteen (93%) of the 15 investigations met the standard for this objective. The investigation that did not meet the standard for the reason listed below:

Control No. 2017072 – There was no evidence that the involved Department employee’s injuries were photographed and no justification was provided.

Objective No. 9 – Reporting Allegations of Misconduct

Criteria

Department Manual Section 3/830.10, Complaint Related to a Non-Categorical Use of Force, states, *“When a complaint is related to a Non-Categorical use of force, the investigating supervisor shall notify his/her watch commander or officer in charge immediately. The watch commander or officer in charge shall assess the situation and determine if immediate notification to Internal Affairs Group (IAG) is required.*

If IAG does not respond and assume responsibility for investigating the incident as a personnel complaint, the supervisor shall complete the use of force investigation and include the complaint information in his/her report.”

Audit Procedures

Each investigation was reviewed to determine if the supervisor investigating the use of force incident had reason to believe misconduct may have occurred, and if so, whether it was reported.

Investigations for which there was indication that misconduct may have occurred and for which a complaint investigation was generated, met the standard for this objective. Nine investigations were applicable for this objective.

Findings

Each (100%) of the nine investigations met the standard for this objective.

Objective No. 10 – Notifying the Department without Delay

Criteria

Department Manual Section 4/245.10, Reporting a Non-Categorical Use of Force Incident, states, *“An employee who becomes involved in a reportable Non-Categorical use of force incident shall:*

- *Notify a supervisor without delay;”*

Audit Procedures

Investigations were reviewed to determine if an employee involved in a NCUOF incident notified a supervisor without delay.

Investigations that indicated employees involved in a use of force notified a supervisor without delay met the standard for this objective.

Findings

Each (100%) of the 37 investigations met the standard for this objective.

RECOMMENDATIONS

None.

ACTIONS TAKEN/MANAGEMENT'S RESPONSE

On March 5, 2015, AD met with and provided a copy of the audit report to the Acting Commanding Officer (C/O), Use of Force Review Division, and discussed the audit findings. The C/O, Use of Force Review Division expressed general agreement with the audit findings.

A copy of the audit report was also provided to the Assistant to the Director, Office of Operations, who also expressed general agreement with the audit findings.