INTRADEPARTMENTAL CORRESPONDENCE

January 10, 2024
14.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: NON-CATEGORICAL USE OF FORCE INVESTIGATIONS AUDIT (AD NO. 23-002)

RECOMMENDED ACTION

It is recommended that the Board of Police Commissioners REVIEW and APPROVE the attached Non-Categorical Use of Force Investigations Audit.

DISCUSSION

Audit Division conducted the Non-Categorical Use of Force InvestigationsAudit to evaluate compliance with Department policies and procedures.

If additional information regarding this audit is required, please contact Police Administrator Sharon Sargent, Commanding Officer, Audit Division, at (213) 486-8480.

Respectfully,

MICHEL R. MOORE
Chief of Police

Attachment

NON-CATEGORICAL USE OF FORCE INVESTIGATIONS AUDIT
Conducted by
Audit Division 2023

OVERVIEW

In accordance with the Los Angeles Police Department (Department) Annual Audit Plan for 2023, Audit Division (AD) conducted an audit of Non-Categorical Use of Force (NCUOF) Investigations to assess compliance of NCUOF investigations with Department policies and procedures as they relate to their evaluation, review, and oversight.

Table No. 1 – Summary of Findings Compared to Prior Audit

Objective No.	Audit Objectives	2018[1]		2023	
		Number Meeting Standards/ Evaluated	Percent Meeting Standards	Number Meeting Standards/ Evaluated	Percent Meeting Standards
1	**Investigating Supervisor Not Involved in the Use of Force**[2]	N/A	N/A	37/37	100%
2	**Body-Worn Video Recordings Consistent with Related Reports**	28/28	100%	37/37	100%
3	**Watch Commander's Insight**	50/50	100%	37/37	100%

BACKGROUND

All NCUOF incidents shall be initially classified by the investigating supervisor as either a Level I or Level II incident. A NCUOF shall be reported as a Level I incident under the following circumstances:

1. An allegation of unauthorized force is made regarding the force used by a Department employee(s); or,
2. The force used results in a serious injury, such as a broken bone, dislocation, an injury requiring sutures, etc., that does not rise to the level of a Categorical use of force incident; or,

   Note: If the investigating supervisor is unable to verify the seriousness of an injury or complained of injury, it shall be reported as a Level I incident. If the injury requires admission to a hospital, the incident becomes a Categorical use of force and will be investigated by Force Investigation Division.

3. The injuries to the person upon whom force was used are inconsistent with the amount or type of force reported by the involved Department employee(s); or,
4. Accounts of the incident provided by witnesses and/or the subject of the use of force

[1] The 2023 compliance rate was compared to 2018 audit objectives because the 2020 audit consisted of different objectives.
[2] This is the first time this objective was examined.

substantially conflict with the involved employee's account.[3]

All other reportable NCUOF that do not meet Level I criteria shall be reported as Level II incidents.[4]

For this audit, auditors selected only Level I investigations for examination to determine compliance with Department policies and procedures. Furthermore, AD chose three areas within Level I investigations for examination:

- Investigating supervisor not involved in the use of force;
- Body-worn video recordings consistent with the related reports; and,
- Review of the Watch Commander's Insight.

PRIOR AUDIT

The last NCUOF audit was conducted in 2020 and it examined different objectives than the current one. In 2020, the Department met the standards and the compliance rates ranged from 93 percent to 100 percent. The 2023 compliance rate was compared to 2018 audit objectives because the 2020 audit consisted of different objectives.

SCOPE AND METHODOLOGY

Auditors queried all Level I NCUOF investigations closed between October 1, 2022, and December 31, 2022, and identified 37 closed investigations. All 37 NCUOF investigations were examined.

DETAILED FINDINGS

Objective No. 1 – Investigating Supervisor Not Involved in the Use of Force

Criteria

Department Manual Section 4/245.10, *Reporting A Non-Categorical Use of Force Incident*, dated Quarter 3, 2022, states:

> *"**Investigating Supervisor's Responsibilities**. When a NCUOF 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 NCUOF investigation...*

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[3] See Department Manual Section 4/245.11, *Non-Categorical Use of Force Reporting Levels*, dated Quarter 3, 2022.

[4] Commencing in calendar year 2023, the Department added an additional level of reporting NCUOF incidents, Level III. The criteria for this level is outlined in Department Manual Section 4/245.10, *Non-Categorical Use of Force Reporting Levels*, dated Quarter 1, 2023.

> ***Note**: An involved supervisor is defined as a supervisor who used force, monitored the officer's actions and was in a position to intervene if necessary, provided guidance or direction during the use of force, or participated in the on-scene planning or directing related to the incident."*

Audit Procedures

Auditors reviewed each NCUOF report "Case Details" portion, to determine if the use of force investigation was assigned to an uninvolved supervisor. Investigations which documented that the supervisor assigned to conduct the use of force investigation was not involved in the incident, met the standard for this objective.

Findings

Each of the 37 (100 percent) NCUOF investigations met the standard.

Objective No. 2 – Body-Worn Video Recordings Consistent With Related Reports

Criteria

Department Manual Section 4/245.10, *Investigating Supervisors Responsibilities*, dated Quarter 3, 2022, states:

> *"The supervisor assigned to conduct the investigation shall:...*
>
> - *Identify and document any inconsistencies or conflicts between the accounts of the officers, the suspect(s), and/or the witness(es), and attempt to resolve those differences;"*

Audit Procedures

Each investigation was examined to determine that the investigating supervisor identified and documented any inconsistencies or conflicts between the body-worn video recordings and the related reports (Arrest Report, Employee's Report Form 15.07.00, etc.) in the NCUOF investigation.

Investigations which contained inconsistencies or conflicts between the body-worn video recordings and the related reports, and these inconsistencies or conflicts were identified by the investigating supervisor who attempted to resolve those differences, met the standard for this objective.

Findings

Each of the 37 (100 percent) NCUOF investigations met the standard.

Objective No. 3 – Watch Commander's Insight

Criteria

Department Manual Section 4/245.10, *Reporting A Non-Categorical Use of Force Incident*, dated Quarter 3, 2022, states:

> *"**Watch Commander's Responsibilities**. A watch commander/OIC reviewing a NCUOF investigation shall document his or her insight in the "Findings" section of the NCUOF Report. As part of this evaluation, watch commanders/OICs[5] shall:*
>
> - *Evaluate whether or not the force used was objectively reasonable and ensuring that all relevant tactical, use of force, and policy issues are addressed;*
> - *Evaluate each force option used by each officer and determine if it was reasonable based on the actions of the subject of force (i.e., suspect);*
> - *Evaluate the officer's efforts at tactical de-escalation and provide a rationale if tactical de-escalation was not feasible;*
> - *Ensure that all supervisors are interviewed regarding their actions at the scene during the incident;*
> - *Evaluate the actions of each of these supervisors and the existence and effectiveness of supervisory command and control;*
> - *Level I issues need to be identified and addressed in the "Insight" section, such as how the inconsistencies or conflicts were resolved (e.g., independent witnesses corroborated the officer's or subject's account, a lack of injuries one would expect to see with the force reported by the subject, or video/audio corroborated or refuted the subject's allegation); and,*
> - *Review the relevant recordings of the incident "bookmarked" by the investigating supervisor and certify that this has been completed."*

Audit Procedures

Auditors reviewed the NCUOF report section entitled "Finding Internal Process Report" (one report for each involved officer) to determine if the watch commander's insight evaluated each officer's use of force and that the force used was objectively reasonable and consistent based on the actions of the suspect, and that the officer utilized de-escalation techniques when feasible.

Further, the insight was reviewed to determine that all at-scene supervisors present during the incident were interviewed. In addition, an evaluation was conducted of the at-scene supervisors' actions to evaluate the existence and effectiveness of their command and control of the incident. Lastly, each insight was reviewed for language explaining the reason the investigation was determined to be a Level I investigation and that the relevant recordings were bookmarked.

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[5] The designation "OIC" is defined as Officer In Charge.

Each investigation met the standard for the objective if the watch commander's insight was determined to have evaluated the above areas relevant to the use of force investigation.

Findings

Each of the 37 (100 percent) NCUOF investigations met the standard.

RECOMMENDATION

None.

ACTIONS TAKEN/MANAGEMENT RESPONSE

Since the compliance rate for all objectives is 100 percent, the Office of Operations was not asked to provide response.

APPENDIX I

Audit Division Contact: Sergeant II Eugene Bedolla, Serial No. 30210,
(213) 486-8380 or 30210@lapd.online

Staff Acknowledgments: In addition to the contact named above, Detective II Mark Fassam, Serial No. 36977, made key contributions to this report.

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