

INTRADEPARTMENTAL CORRESPONDENCE

October 25, 2013

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TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: STATUS OF RECOMMENDATIONS MADE BY THE OFFICE OF THE INSPECTOR GENERAL IN THE REVIEW OF NON-CATEGORICAL USE OF FORCE INVESTIGATIONS

RECOMMENDED ACTIONS

1. That the Board of Police Commissioners REVIEW and ACCEPT the Department's report on the status of recommendations made by the Office of the Inspector General in the 2013 Review of Non-Categorical Use of Force Investigations.

DISCUSSION

Beginning in October 2012, the Office of the Inspector General (OIG) examined a sample of Non-Categorical Use of Force (NCUOF) investigations from various perspectives -- compliance with current Department protocols, quality of documented evidence and conclusions, and effect on the investigation of public complaints of unauthorized force. As a result, the OIG has determined that investigations of NCUOF incidents appear to be thoroughly conducted and, on the whole, adhere to Department policies. There were, however, some areas of the process, such as documentation of individual statements, identification and resolution of material conflicts, and written evaluation of the force used, that could be improved. The OIG identified some recommended revisions to the current process. The attached report provides a summary of the recommendations along with the Department's status on those recommendations.

If you have any questions, please have a member of your staff contact Captain Scott Sargent, Commanding Officer, Use of Force Review Division, at (213) 486-5950.

Respectfully,



CHARLIE BECK
Chief of Police

Attachment

OIG 2013 NCUOF AUDIT
 Audit Recommendations Tracking Sheet
 Department Status

Updated 9-11-2013 by Use of Force Review Division

Below is a summary of the OIG's recommendations *From the 2013 Non-Categorical Use of Force Report* and the Department's status of those recommendations.

1. All officer accounts of a NCUOF (including those of witness officers) should be individually and independently documented in a prompt manner.

The Department is working with the OIG to develop a Supplemental Officer Statement Form to capture individual accounts of the incident.

Date	Status
8-1-13	On 8-1-13, UOFRD completed an initial draft of a NCUOF Supplemental-Officer Statement Form and submitted it to the OIG and Command Staff officers for discussion and feedback.
9-11-13	Department is currently revising the report draft to ensure that it comports with the TEAMS system.

2. The Department should update and reinforce current guidelines for the preparation of UOF reports and individual accounts to require that officers provide full, plain-language descriptions of all material subject and officer actions

The Department conducts regular training Department-wide for supervisors, and will continue to reinforce guidelines on the avoidance of conclusory language and the importance of review to ensure that suspect behavior is clearly articulated relative to each use of force.

Date	Status
8-1-13	The Department does this training at each NCUOF related training and will continue to do so.
8-6-13	UOFRD will select a lieutenant to fill a position which will have the primary objective of supporting training with Training Division personnel on UOF related issues including this subject. This will assist in the feedback loop for lessons learned from UOF incidents.
8-6-13	Correspondence was forwarded to all commanding officers to reiterate and reinforce <i>avoidance of conclusory language and the importance of review to ensure that suspect behavior is clearly articulated relative to each use of force.</i>

3. The Department should ensure that all IAG investigations of alleged unauthorized force comply with applicable Department policies, including those that were first investigated through the NCUOF process. In the event that an underlying NCUOF investigation involved interviews of non-Department persons that were not recorded as part of that process, it is incumbent upon the IAG I/O to attempt to re-interview and record those persons.

This process will be added to the draft of the pending NCUOF Special Order.

Date	Status
8-1-13	IAG evaluated and prepared training.
8-7-13	<p>Update from IAG regarding recommendations 3, 11, and 12:</p> <p>As of 8-7-13, training was provided at a Professional Standards Bureau's All Commanding Officers & Lieutenant Officers in Charge (OIC) Meeting. All OICs were directed to train all their assigned personnel at Internal Affairs on the requirements of these recommendations.</p>

4. The Department should develop written procedures for upgrading NCUOF investigations to a Level I in the event that qualifying information comes to light after the initial investigation has been completed, to include a process for promptly attempting to obtain recorded interviews when the NCUOF case is still open.

The Department will have this mandate added to the draft of the pending NCUOF Special Order.

Date	Status
8-1-13	Revision of the NCUOF Order subsequent to this audit is pending.
8-6-13	Revised Special Order will be reviewed with changes added based on these recommendations.

5. I/Os should provide information about witnesses' vantage point and portion of force observed in every investigative file, including Level II investigations

The Department expects that vantage points be articulated in UOF reports and will continue to stress that through training and through the NCUOF review process.

Date	Status
8-1-13	Revision of the NCUOF Order subsequent to this audit is pending.

8-6-13	An email communication was forwarded to C/Os by the Commanding Officer, Use of Force Review Division, to reiterate the point made in the recommendation.
9-11-13	Information was added to UOFRD Training protocol for Areas/Bureaus.
<p>6. The Department should consider replacing the term “substantially conflicts” with “materially differs” regarding a reportable discrepancy and ensure that this aspect is included in current and future training.</p> <p>Department agrees and will include this in the NCUOF Order pending revision.</p>	
Date	Status
8-6-13	The revised Special Order on NCUOF will include this change.
<p>7. <i>The Department should clearly require that I/Os, as part of their determination, identify substantial conflicts relating to the subject’s actions as well as those of the officers. Where it is determined that an apparent inconsistency or conflict does not rise to a Level I substantial conflict, the evidence and reasoning for this determination should be clearly documented in the file.</i></p> <p><i>The Department will reinforce this guideline through training and add it to the pending revised Special Order.</i></p>	
Date	Status
8-6-13	Also covered in the email communication sent to all commanding officers by the Commanding Officer, Use of Force Review Division.
8-6-13	This will be a component in all future UOF investigation training and in the revised NCUOF Special Order.
<p>8. <i>The Department should train supervisors, watch commanders, and other evaluators to review all available documents for apparent inconsistencies and, where they are identified, make an attempt to resolve them using the preponderance of the evidence standard as part of the Watch Commander’s Insight.</i></p> <p><i>The Department has agreed to implement this recommendation.</i></p>	
8-6-13	An email communication was sent by the Commanding Officer, Use of Force Review Division, to all commanding officers and

	training coordinators reminding them of the above expectations.
8-6-13	This will be included in the training protocol described above.
<p>9. Because of the potential value of videotaped evidence, the Department should require the I/O and reviewers at every level to view and certify that they have reviewed any video recordings of the incident.</p> <p><i>All reviewing levels are expected to review all relevant videos and other recordings that capture the incident before forwarding their recommendations up the chain of command.</i></p>	
7-2013	Communications were sent to commanding officers to remind them of this (standing) expectation.
8-6-13	Follow up communications (email) sent to all commanding officers.
<p>10. The Department should train supervisors, watch commanders, and other evaluators to review all available documents for apparent inconsistencies and, where they are identified, make an attempt to resolve them using the preponderance of the evidence standard as part of the Watch Commander's Insight.</p> <p>Future training will reinforce this concept and this protocol will be added to the draft of the pending Special Order.</p>	
Date	Status
8-6-13	Special Order review pending, future training will include this communications sent to C/Os on this.
<p>11. The Department should avoid framing allegations against "Unknown Officers" where an underlying NCUOF investigation contains the names of officers who used force during the incident. It should also clarify for all Department personnel that allegations regarding a use of force shall be framed even if they have previously been investigated under the NCUOF process.</p> <p>The Department has agreed to implement this recommendation.</p>	
Date	Status
8-6-13	IAG was evaluating this procedural change as of 8-2013.

9-11-13	See No. 3 above.
<p>12. The Department should update the manual to reflect current policy and practice. Until such revisions are implemented, IAG should exclusively use Section 556, or the associated Special Order, as its primary standard of review for allegations of unauthorized force.</p> <p>These manual revisions have been drafted and forwarded to Planning and Research Division to complete this change.</p>	
Date	Status
8-5-13	PRD has revisions in the review cycle with edits/revisions.
9-11-13	Special Order still in review process.
9-25-13	Final modifications from the review process are being changed.