

Los Angeles County Sheriff's Department

Audit and Accountability Bureau



Use of Force Audit

Custody Services Division –

General Population –

Men's Central Jail

Audit No. 2020-2-A



Alex Villanueva, Sheriff

September 23, 2020

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
Audit and Accountability Bureau**

**USE OF FORCE AUDIT – CUSTODY OPERATIONS
CUSTODY SERVICES DIVISION – GENERAL POPULATION
MEN'S CENTRAL JAIL
Project No. 2020-2-A**

PURPOSE

The Audit and Accountability Bureau (AAB) conducted the Use of Force (UOF) Audit – Custody Operations – Custody Services Division – General Population – Men's Central Jail (MCJ) under the authority of the Sheriff of Los Angeles County. The audit was performed to determine how the Los Angeles County Sheriff's Department (Department) and MCJ complied with the Manual of Policy and Procedures (MPP), Custody Division Manual (CDM), and provisions of the Monitoring Plan and Compliance Measures¹ required by the Rosas Settlement Agreement² regarding the management, reporting, and overall evaluation of UOF incidents involving MCJ inmates.

The AAB conducted this audit under the guidance of the Generally Accepted Government Auditing Standards.³ The AAB determined the evidence obtained was sufficient and appropriate to provide reasonable assurance for the results based on the audit objectives.

BACKGROUND

Following allegations of excessive UOF by Department personnel in the Los Angeles County Jails, the Citizens' Commission on Jail Violence (Commission) was mandated in October 2011, by the Board of Supervisors, to conduct a review of the nature, depth, and cause of UOF in the jails. As a result of the review, the Department agreed to implement several recommendations regarding the Department's UOF policy and procedures which were outlined in the Report of the Citizens' Commission on Jail Violence dated September 2012.

In September of 2014, the Department entered into the Rosas Settlement Agreement to address UOF incidents and inmate injuries within the Los Angeles County Jails. The Rosas Settlement Agreement called for the development of an action plan entitled "Monitoring Plan and Compliance Measures" that was designed to ensure that inmates are not subjected to excessive force in the Los Angeles County Jails. As a result of the Rosas Settlement Agreement and the development of the action plan, changes were made to Department policies and procedures addressing UOF.

¹ Revised Monitoring Plan and Compliance Measures, December 2018.

² Rosas v. Sheriff, 2:12-CV-000428 (C.D. Cal.), September 2014.

³ United States Government Accountability Office, Government Auditing Standards, July 2018.

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PRIOR AUDIT

This is the first audit regarding UOF incidents at MCJ conducted by the AAB.

METHODOLOGY

Scope

The audit encompassed five main objectives to ensure compliance with the MPP, CDM, and provisions⁴ of the Monitoring Plan and Compliance Measures related to UOF prevention, categorization, reporting, interviews, and investigations.

- Objective No. 1 – Use of Force Prevention – To determine if Department members intervened in an effort to de-escalate, control, stop, or prevent the UOF.
- Objective No. 2 – Use of Force Categorization – To determine if the incidents were appropriately categorized.
- Objective No. 3 – Use of Force Reporting – To determine if all Department members that were involved in, directed, assisted with, or witnessed the incidents submitted written reports as required. In addition, to determine if the incidents were entered into the Preliminary Data Entry (PDE) system⁵ and the electronic Line Operations Tracking system (e-LOTS)⁶ within the mandated timeframes.
- Objective No. 4 – Use of Force Interviews – To determine if inmates and attending physicians were interviewed as required and if photographs and/or video recordings were taken of Department member injuries related to the incidents.
- Objective No. 5 – Use of Force Incident Investigations – To determine if a non-involved supervisor completed each UOF incident investigation and if they were submitted for review and approval to the Unit Commander, Division, and Discovery Unit within the mandated timeframes.

Audit Time Period

The audit time period was from January 1, 2019, through March 31, 2019, for Category 1 and 2 UOF incidents. For Category 3 UOF incidents, the audit time period was expanded to January 1, 2019, through December 31, 2019, to obtain a more accurate

⁴ The provisions of the Monitoring Plan and Compliance Measures evaluated for this audit are encompassed in the MPP and CDM sections stated as the criteria in the Audit Objectives and Results section of this report.

⁵ The PDE system provides an initial data entry point where key Service Comment, Force, Investigation, Traffic Collision, Custody Complaint, and Special Conditions information is entered.

⁶ The e-LOTS is a tracking application that enables Department facilities and stations to track the progress of certain types of projects or incidents such as use of force, ongoing inmate complaints, and traffic collisions.

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representation of the population of these incidents since a small number of Category 3 UOF incidents occurred during 2019.

Audit Population

All MCJ’s Category 1, 2, and 3 UOF incident investigations completed during the audit time period were included in the population. For purposes of this audit, Category 1 and 2 UOF incident investigations were considered completed when received by the Discovery Unit. Category 3 UOF incidents were considered completed when the investigations were finalized by the Internal Affairs Bureau (IAB).

For the audit time period, a population of one hundred seven UOF incidents were identified, from which a stratified sample⁷ of sixty-six UOF incidents were obtained to evaluate for this audit. Of the sixty-six UOF incidents, forty-four were Category 1 UOF incidents and the remaining twenty-two were Category 2 UOF incidents. The population did not include Category 3 UOF incidents because none were finalized by the IAB during the audit time period.

The UOF incidents population was identified through the Performance Recording and Monitoring System (PRMS), Force Module.⁸ The population was also reconciled to referenced e-LOTS.

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⁷ Using a statistical one-tail test with a 95% confidence level and a 4% error rate, a statistically valid sample was obtained.

⁸ The PRMS provides systematic recording of data relevant to incidents involving uses of force, shootings, and commendations/complaints involving Department personnel. The Force Module contains information on use or force incidents.

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AUDIT OBJECTIVES AND RESULTS

Objective No. 1 – Use of Force Prevention

Objective 1(a) – Determine if Department members attempted to de-escalate the incidents.

Criteria

Manual of Policy and Procedures, Section 3-10/005.00, Force Prevention Principles (July 2013), states:

Department members should endeavor to de-escalate confrontations through tactical communication, warnings, and other common sense methods preventing the need to use force whenever reasonably possible...

Custody Division Manual, Section 7-01/010.00, Force Prevention Principles (January 2017), states:

Reasonable efforts, depending on each situation, should be made by jail personnel to de-escalate incidents by first using sound verbal communications when possible or the use of time and distance...

Force must be terminated as soon as possible consistent with maintaining control of the situation and must be de-escalated if resistance decreases...

When Department members witness force that they know is excessive, the member shall attempt, when feasible and when it does not jeopardize the safety of the inmate or staff, to intervene in an effort to de-escalate, reduce, control, or stop the force being used...

Procedures

Auditors reviewed the UOF incident investigation package, including audio and/or video files for each incident to determine whether Department members attempted to de-escalate the incident through tactical communication, warnings, and other methods preventing the need to use force.

Results

Seven of the 66 UOF incidents were excluded for evaluation. Detailed justifications were provided explaining that the incidents were sudden and, as a result, de-escalation could not be attempted. All 59 (100%) UOF incidents met the criteria.

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Objective 1(b) – Determine if Department members who were involved in, directed, assisted with, or witnessed the incident escorted the suspect inmates to the clinic, housing, holding cell, etc.

Criteria

Manual of Policy and Procedures, Section 3-10/105.00, Medical Treatment and Transporting Suspects (July 2013), states:

Except in the most compelling of circumstances, personnel involved in a Category 2 or 3 Force, including participants, witnesses, and supervisors directing force, shall not transport the suspects. If compelling circumstances require that the suspect be transported by involved personnel, detailed justification shall be made in all supervisors’ subsequent reports...

Custody Division Manual, Section 7-01/010.00, Force Prevention Principles (January 2017), states:

Except in the most compelling of circumstances, personnel involved in a use of force or an interaction with a recalcitrant inmate, including participants, witnesses, and supervisors directing the force, shall not escort the inmate to the clinic, housing, a holding cell, etc., unless there are no other personnel reasonably available to escort the inmate...

Procedures

Auditors reviewed the UOF incident investigation package, including audio and/or video files for each incident to determine whether Department members who were involved in, directed, assisted with, or witnessed the incident escorted the suspect inmates to the clinic, housing, holding cell, etc.

Results

Four of the 66 UOF incidents were excluded for evaluation. Three of the four incidents did not require the suspect inmates to be escorted to the clinic. The suspects were sprayed with Oleoresin Capsicum in their cells and refused medical treatment. Details were provided for the remaining incident explaining why the suspect inmate was escorted by involved Department members. Fifty-five of the 62 (89%) UOF incidents met the criteria. Seven UOF incidents did not meet the criteria. Department members who were involved in, directed, assisted with, and/or witnessed the incidents escorted the suspect inmates and detailed justification was not provided.

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Objective No. 2 – Use of Force Categorization

Determine if the incidents were appropriately categorized.

Criteria

Custody Division Manual, Section 7-06/000.00, Use of Force Reporting Procedures (March 2016),⁹ states:

Reportable Force Categories

There are three categories of Reportable Force.

Category 1 Force involves any of the following where there is no injury:

- *Searching and handcuffing techniques resisted by a suspect*
- *Hobbling resisted by a suspect*
- *Control holds or come-alongs resisted by a suspect*
- *Take downs*
- *Use of Oleoresin Capsicum spray, Freeze +P or Deep Freeze aerosols, or Oleoresin Capsicum powder from a Pepperball projectile (when a suspect is not struck by a Pepperball projectile) if it causes only discomfort and does not involve injury or lasting pain*

Category 2 Force involves any of the following:

- *Any identifiable injury*
- *A complaint of pain that a medical evaluation determines is attributable to an identifiable injury*
- *Any application of force other than those defined in Category 1 Force, but does not rise to the level of Category 3 Force*

⁹ The Custody Division Manual, Section 7-06/000.00, Use of Force Reporting Procedures, was last revised in April 2020. Since the audit period for this audit was from January 1, 2019 to March 31, 2019, the prior version (March 2016) of this policy was applicable to the audit time period. Auditors did not note any significant revisions.

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Category 3 Force involves any of the following:

- *All shootings in which a shot was intentionally fired at a person by a Department member*
- *Any type of shooting by a Department member which results in a person being hit*
- *Force resulting in admittance to a hospital*
- *Any death following a use of force by any Department member*
- *All head strikes with impact weapons*
- *Kick(s), delivered from a standing position, to an individual’s head with a shod foot while the individual is lying on the ground/floor*
- *Knee strike(s) to an individual’s head deliberately or recklessly causing their head to strike the ground, floor, or other hard, fixed object*
- *Deliberately or recklessly striking an individual’s head against a hard, fixed object*
- *Skeletal fractures, with the exception of minor fractures of the nose, fingers or toes, caused by any Department member*
- *All canine bites*
- *Any force which results in a response from the Internal Affairs Bureau (IAB) Force/Shooting Response Team, as defined in MPP section [3-10/130.00](#)...*

Procedures

Auditors reviewed the UOF incident investigation package, including audio and/or video files for each incident to determine whether the incident was appropriately categorized.

Results

All 66 (100%) UOF incidents met the criteria.

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Objective No. 3 – Use of Force Reporting

Objective 3(a) – Determine if all Department members that were involved in, directed, assisted with, or witnessed the incidents submitted written reports.

Criteria

Manual of Policy and Procedures, Section 3-10/100.00, Use of Force Reporting Procedures (December 2017),¹⁰ states:

Unless otherwise specifically directed by the watch commander/supervising lieutenant, the member shall complete a written first report of the force incident prior to the member going off duty.

Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his or her actions prior to the member going off duty.

Department members witnessing reportable force used by another Department member or by anyone working with or on behalf of the Department shall similarly advise their immediate supervisor, who will determine whether a separate report/memorandum by the member witness is required prior to the member going off duty...

Custody Division Manual, Section 7-06/000.00, Use of Force Reporting Procedures (March 2016), states:

Each member who uses reportable force and each supervisor who directed that force which was used shall complete a written first report of the force incident prior to going off duty, unless the watch commander determines that exigent circumstances such as the member’s physical or medical condition impair their ability to complete the report, in which case the report shall be completed as soon as possible and the reasons for the delay should be documented.

Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his or her actions prior to the member going off duty.

¹⁰ The Manual of Policy and Procedures, Section 3-10/100.00, Use of Force Reporting Procedures, was last revised in September 2019. Since the audit period for this audit was from January 1, 2019 to March 31, 2019, the prior version (December 2017) of this policy was applicable to the audit time period. Auditors did not note any significant revisions.

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Department members witnessing reportable force used by another Department member or by anyone working with or on behalf of the Department shall similarly advise their immediate supervisor and prepare an independent written report before going off duty unless the watch commander specifically designates which witnesses will write the reports because a large number of members witnessed the same incident. If their immediate supervisor used or directed force, witnesses shall make their advisement to the watch commander who will determine whether a separate report/memorandum by the witness is required because of the number of witnesses prior to going off duty...

Procedures

Auditors reviewed the UOF incident investigation package, including audio and/or video files for each incident to determine whether all Department members that were involved in, directed, assisted with, or witnessed the incident submitted written reports.

Results

All 66 (100%) UOF incidents met the criteria.

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Objective 3(b) – Determine if Department member reports were submitted prior to going off duty, unless otherwise specifically directed by the watch commander/supervising lieutenant.

Criteria

Manual of Policy and Procedures, Section 3-10/100.00, Use of Force Reporting Procedures (December 2017), states:

Unless otherwise specifically directed by the watch commander/supervising lieutenant, the member shall complete a written first report of the force incident prior to the member going off duty.

Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his or her actions prior to the member going off duty.

Department members witnessing reportable force used by another Department member or by anyone working with or on behalf of the Department shall similarly advise their immediate supervisor, who will determine whether a separate report/memorandum by the member witness is required prior to the member going off duty...

Custody Division Manual, Section 7-06/000.00, Use of Force Reporting Procedures (March 2016), states:

Each member who uses reportable force and each supervisor who directed that force which was used shall complete a written first report of the force incident prior to going off duty, unless the watch commander determines that exigent circumstances such as the member’s physical or medical condition impair their ability to complete the report, in which case the report shall be completed as soon as possible and the reasons for the delay should be documented.

Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his or her actions prior to the member going off duty.

Department members witnessing reportable force used by another Department member or by anyone working with or on behalf of the Department shall similarly advise their immediate supervisor and prepare an independent written report before going off duty unless the watch commander specifically designates which witnesses will write the reports because a large number of members witnessed the same incident. If their immediate supervisor used or directed force, witnesses

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shall make their advisement to the watch commander who will determine whether a separate report/memorandum by the witness is required because of the number of witnesses prior to going off duty...

Procedures

Auditors reviewed the reports submitted by Department members that were involved in, directed, assisted with, or witnessed, as well as the MCJ’s Shift In-Service Rosters, for each incident to determine whether the reports were submitted by the Department members prior to going off duty, unless otherwise directed.

Results

Fifty-three of the 66 (80%) UOF incidents met the criteria. Thirteen UOF incidents did not meet the criteria. The Department members did not submit the reports prior to going off duty and detailed justification was not provided.

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Objective 3(c) – Determine if Department member reports included the required detail.

Criteria

Custody Division Manual, Section 7-06/000.00, Use of Force Reporting Procedures (March 2016), states:

Each member reporting force in a report or memorandum shall describe in detail the force incident, including the tactics leading up to the use of force, the actions of the suspect necessitating the use of force, the specific force used in response to the suspect's actions, and any force the member observed was used by other members. Any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment shall be documented in the first report, supplementary reports, or memoranda...

Procedures

Auditors reviewed reports submitted by Department members that were involved in, directed, assisted with, or witnessed, as well as related source documentation (e.g., Supervisor’s Report on UOF), and audio and/or video files for each incident to determine whether the reports included the required details of the incidents.

Results

Ten of the 66 (15%) UOF incidents met the criteria. Fifty-six UOF incidents did not meet the criteria. The reports did not include the required details of the incidents, such as the observance of injuries/non-injuries and the escorting of suspect inmates for medical evaluation/treatment.

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Objective 3(d) – Determine if the Unit Commander ensured that preliminary data was entered into the Preliminary Data Entry system within the first 24 hours of each incident, or as soon as possible thereafter.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

The Unit Commander shall ensure that preliminary data is entered into the Preliminary Data Entry (PDE) system within the first 24 hours of the force incident, or as soon as possible thereafter...

Procedures

Auditors generated the PDE Force Summary Report from PRMS to determine whether the preliminary data of the incidents was entered into the PDE system within 24 hours of each incident, or as soon as possible thereafter. The PDE Force Summary Report included the date of each incident as well as the date each incident was entered into the PDE System.

Results

Twenty-five of the 66 (38%) UOF incidents met the criteria. Forty-one UOF incidents did not meet the criteria. The preliminary data of these incidents was not entered into the PDE system within 24 hours of each incident and detailed justification was not provided.

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Objective 3(e) – Determine if the supervisor entered the incidents into the electronic Line Operations Tracking System no later than the end of the shift during which each incident occurred.

Criteria

Custody Division Manual, Section 7-07/030.00, Compliance Lieutenant (March 2018), states:

As soon as practical, but no later than the end of the shift during which the use of force incident or allegation of force occurred, the supervisor should enter the use of force incident, or the force allegation, into the electronic Line Operations Tracking System (e-LOTS) with a summary description of the force incident or allegation and the category of the force incident as it is known at the time...

Procedures

Auditors reviewed the e-LOTS Use of Force Records Report provided by the Department’s Correctional Innovative Technologies Unit to determine whether the incidents were entered into e-LOTS by the supervisor no later than the end of the shift during which each incident occurred. The e-LOTS Use of Force Records Report included the date of each incident as well as the date each incident was entered into e-LOTS.

Results

All 66 (100%) UOF incidents met the criteria.

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Objective No. 4 – Use of Force Interviews

Objective 4(a) – Determine if suspect and witness inmates were interviewed separately from anyone who was involved in, directed, assisted with, or witnessed the incidents, except in the most compelling of circumstances.

Criteria

Manual of Policy and Procedures, Section 3-10/110.00, Use of Force Review Procedures (May 2015),¹¹ states:

Except in the most compelling of circumstances, personnel involved in a use of force, including participants, witnesses, and supervisors directing force, shall not be present when the interview is conducted. If compelling circumstances require their presence, detailed justification shall be made in all supervisors’ subsequent reports...

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Personnel involved in a use of force, including participants, witnesses, and supervisors directing force, shall not be present when the interview is requested or conducted without approval from the on duty watch commander. If exigent circumstances require their presence, detailed justification shall be made in all supervisors’ subsequent reports...

Procedures

Auditors reviewed the suspect and witness inmate interviews as well as other related source documentation (e.g., Department member UOF reports) for each incident to determine whether suspect and witness inmates were interviewed separately from anyone who was involved in, directed, assisted with, or witnessed the incidents, except in the most compelling of circumstances.

Results

Sixty of the 66 (91%) UOF incidents met the criteria. Six UOF incidents did not meet the criteria. For three of the six UOF incidents, Department members present at the incidents were also present during the interviews and detailed justification was not provided. For two of the six UOF incidents, the Department members’ employee

¹¹ The Manual of Policy and Procedures, Section 3-10/110.00, Use of Force Review Procedures, was last revised in July 2020. Since the audit period for this audit was from January 1, 2019 to March 31, 2019, the May 2015 version of this policy was applicable to the audit time period. Auditors did not note any significant revisions.

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information was not provided during the interviews. As a result, it could not be determined if the Department members were also present at the incidents. For the remaining UOF incident, a Department member present at the incident was also present during the interview incident and Department members’ employee information was not provided during the interviews. As a result, it could not be determined if the Department members were also present at the incident.

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Objective 4(b) – Determine if the watch commander/supervising lieutenant ensured that suspect inmate interviews were recorded on video and, if appropriate, photographs were also taken.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

The watch commander/supervising lieutenant shall ensure that the interview of the inmate is recorded on video and, if appropriate, photographs are also taken, paying particular attention to any known or alleged areas of injury (obtain inmate consent for photographing injuries hidden by clothing)...

Procedures

Auditors reviewed the media files (e.g., photographs, audio, and/or video files) for each incident to determine whether the suspect inmate interviews were video recorded and, if appropriate, photographs were taken.

Results

All 66 (100%) UOF incidents met the criteria.

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Objective 4(c) – Determine if, prior to the beginning of suspect inmate interviews, the time, date, and location of the interviews were clearly stated, along with the names, ranks, and employee numbers of all persons present.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Prior to beginning the interview, the time, date and location of the interview shall be clearly stated, along with the names, ranks, and employee numbers of all persons present...

Procedures

Auditors reviewed the suspect inmate interviews for each incident to determine whether the time, date, and location of the interviews were clearly stated, along with the names, ranks, and employee numbers of all persons present.

Results

Forty-nine of the 66 (74%) UOF incidents met the criteria. Seventeen UOF incidents did not meet the criteria. The location, date, time of the interviews, and/or the information of all Department members present were not stated.

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Objective 4(d) – Determine if, when interviewing suspect inmates regarding the incidents, the watch commander/supervising lieutenant asked the suspect inmates if they had any injuries, the nature of the injuries, and if they were medically treated.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

When interviewing inmates regarding use of force incidents, the watch commander/supervising lieutenant shall ask the inmate if they have any injuries, the nature of the injuries, and if they were medically treated...

Procedures

Auditors reviewed the suspect inmate interviews for each incident to determine whether the suspect inmates were asked if they had any injuries, the nature of their injuries, and if they were medically treated.

Results

Sixty-three of the 66 (95%) UOF incidents met the criteria. Three UOF incidents did not meet the criteria. The suspect inmates were not asked if they were medically treated.

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Objective 4(e) – Determine if photographs and/or video recordings were taken of Department member injuries related to each incident.

Criteria

Manual of Policy and Procedures, Section 3-10/110.00, Use of Force Review Procedures (May 2015), states:

Photograph and/or record the members’ injuries, if appropriate...

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Photograph and video record the members’ injuries, swelling, or redness sustained during the use of force or document the absence of injuries...

Procedures

Auditors reviewed the media files (e.g., photographs, audio, and/or video files) for each incident to determine whether photographs and/or video recordings were taken of Department member injuries related to the incidents.

Results

Forty-nine of the 66 UOF incidents were excluded for evaluation. Department members did not sustain injuries during the incidents. Ten of the 17 (59%) UOF incidents met the criteria. Seven UOF incidents did not meet the criteria. Photos of the Department member’s injuries were not provided.

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Objective 4(f) – Determine if all potential witnesses were identified and interviewed.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Locate and interview all potential witnesses, including Department personnel, medical/mental health staff, chaplains, and any other civilians who may have been present, and document their statements, including those who could have witnessed but claim not to have witnessed the incident...

Procedures

Auditors reviewed the UOF incident investigation package, including audio and/or video files for each incident to determine whether all potential witnesses were identified and interviewed.

Results

One of the 66 UOF incidents was excluded for evaluation. Based on the information provided, it appears there were no potential witnesses for this incident. Forty-five of the 65 (69%) UOF incidents met the criteria. Twenty UOF incidents did not meet the criteria. All potential witnesses were not identified and interviewed.

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Objective 4(g) – Determine if the attending physician or other qualified medical personnel were interviewed when inmates were taken to a medical facility for examination.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Interview the attending physician or other qualified medical personnel, when the inmate is taken to a medical facility for examination, as to the extent and nature of the inmate's injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported...

Procedures

Auditors reviewed the UOF Medical Report and the Supervisor’s Report on UOF for each incident to determine whether the attending physician or other qualified medical personnel were interviewed when inmates were taken to a medical facility for examination.

Results

All 66 (100%) UOF incidents met the criteria.

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Objective No. 5 – Use of Force Incident Investigations

Objective 5(a) – Determine if a non-involved supervisor completed the use of force investigation.

Criteria

Manual of Policy and Procedures, Section 3-10/110.00, Use of Force Review Procedures (May 2015), states:

When a Unit supervisor who did not direct the force is available, that non-involved supervisor should complete the initial investigation...

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Sergeants who planned, directed, or participated in the use of force shall not complete the investigation of the incident...

Procedures

Auditors reviewed the Supervisor’s Report on UOF as well as other related source documentation (e.g., Department member UOF Reports) and audio and/or video files for each incident to determine whether an uninvolved supervisor completed the force investigation for each incident.

Results

Sixty-five of the 66 (98%) UOF incidents met the criteria. One UOF incident did not meet the criteria. The supervisor who directed the force also completed the investigation and detailed justification was not provided.

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Objective 5(b) – Determine if the watch commander/supervising lieutenant prepared and submitted the use of force incident package to the Unit Commander for all reviews not conducted by an Internal Affairs Bureau Force/Shooting Response Team as soon as possible, but no later than 21 days after each incident, unless otherwise directed.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

The watch commander/supervising lieutenant shall prepare and submit a force package to the unit commander for all reviews of force not conducted by an IAB Force/Shooting Response Team as soon as possible, but no later than 21 days after the incident, unless otherwise directed...

Procedures

Auditors reviewed the Unit Commander’s UOF Review and Incident Analysis report for each incident to determine whether the UOF incident investigation package was submitted to the Unit Commander within 21 days of each incident, unless otherwise directed.

Results

One of the 66 UOF incidents was excluded from evaluation because an IAB Force/Shooting Response Team investigation was conducted for the incident. Eleven of the 65 (17%) UOF incidents met the criteria. Fifty-four UOF incidents did not meet the criteria. The UOF incident investigation packages were not submitted to the Unit Commander within 21 days of each incident and detailed justification was not provided.

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Objective 5(c) – Determine if use of force incident investigation packages requiring Division review were forwarded within 35 days of each incident, unless otherwise directed by the Chief or Division Director.

Criteria

Manual of Policy and Procedures, Section 3-10/110.00, Use of Force Review Procedures (May 2015), states:

Any force package requiring Division review shall be forwarded within 35 days of the incident, unless otherwise directed by the Chief or Division Director...

Procedures

Auditors reviewed the Unit Commander’s UOF Review and Incident Analysis report for each incident to determine whether the UOF incident investigation package was forwarded to the Division within 35 days of each incident, unless otherwise directed.

Results

Seven of the 66 (11%) UOF incidents met the criteria. Fifty-nine UOF incidents did not meet the criteria. The UOF incident investigation packages were not forwarded to the Division within 35 days of each incident and detailed justification was not provided.

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Objective 5(d) – Determine if use of force incident investigation packages were submitted to the Discovery Unit within 60 days of each incident.

Criteria

Custody Division Manual, Section 7-07/000.00, Use of Force Review Procedures (January 2017), states:

Force packages not submitted to the Discovery Unit within 60 days will be considered overdue...

Procedures

Auditors generated the Force Case Detail Report from PRMS for each incident to determine whether the UOF incident investigation package was submitted to the Discovery Unit within 60 days of each incident. The Force Case Detail Report includes the incident date as well as the date Discovery received the package.

Results

Seven of the 66 (11%) UOF incidents met the criteria. Fifty-nine UOF incidents did not meet the criteria. The UOF incident investigation packages were not submitted to the Discovery Unit within 60 days of each incident.

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SUMMARY OF RESULTS

The audit yielded the following results:

Objective No.	Audit Objectives	Met the Criteria
1	USE OF FORCE PREVENTION	
1(a)	<i>Determine if Department members attempted to de-escalate the incidents.</i>	100%
1(b)	<i>Determine if Department members who were involved in, directed, assisted with, or witnessed the incident escorted the suspect inmates to the clinic, housing, holding cell, etc.</i>	89%
2	USE OF FORCE CATEGORIZATION	
	<i>Determine if the incidents were appropriately categorized.</i>	100%
3	USE OF FORCE REPORTING	
3(a)	<i>Determine if all Department members that were involved in, directed, assisted with, or witnessed the incidents submitted written reports.</i>	100%
3(b)	<i>Determine if Department member reports were submitted prior to the Department members going off duty.</i>	80%
3(c)	<i>Determine if Department member reports included the required details.</i>	15%
3(d)	<i>Determine if the Unit Commander ensured that preliminary data was entered into the Preliminary Data Entry system within the first 24 hours of each incident.</i>	38%
3(e)	<i>Determine if the supervisor entered the incidents into e-LOTS no later than the end of the shift during which each incident occurred.</i>	100%
4	USE OF FORCE INTERVIEWS	
4(a)	<i>Determine if suspect and witness inmates were interviewed separately from anyone who was involved in, directed, assisted with, or witnessed the incidents.</i>	91%
4(b)	<i>Determine if the watch commander/supervising lieutenant ensured that suspect inmates were recorded on video and, if appropriate, photographs were also taken.</i>	100%
4(c)	<i>Determine if, prior to the beginning of suspect inmate interviews, the time, date, and location of the interviews were clearly stated, along with the names, ranks, and employee numbers of all persons present.</i>	74%
4(d)	<i>Determine if, when interviewing suspect inmates, the watch commander/supervising lieutenant asked the suspect inmates if they had any injuries, the nature of the injuries, and if they were medically treated.</i>	95%
4(e)	<i>Determine if photographs and/or video recordings were taken of Department member injuries related to each incident.</i>	59%
4(f)	<i>Determine if all potential witnesses were identified and interviewed.</i>	69%
4(g)	<i>Determine if the attending physician or other qualified medical personnel were interviewed when inmates were taken to a medical facility for examination.</i>	100%
5	USE OF FORCE INCIDENT INVESTIGATIONS	
5(a)	<i>Determine if a non-involved supervisor completed the use of force investigation.</i>	98%
5(b)	<i>Determine if the watch commander/supervising lieutenant prepared and submitted the use of force incident package to the Unit Commander for all reviews not conducted by an Internal Affairs Bureau Force/Shooting Response Team as soon as possible, but no later than 21 days after each incident.</i>	17%
5(c)	<i>Determine if use of force incident investigation packages requiring Division review were forwarded within 35 days of each incident.</i>	11%
5(d)	<i>Determine if use of force incident investigation packages were submitted to the Discovery Unit within 60 days of each incident.</i>	11%

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Other Related Matters

Lack of Inclusion of Required Details in Department Member UOF Reports

In order to better facilitate certain required detailed information on Department Member UOF Reports, the Department should consider reformatting the existing forms being used. The use of check boxes for required information such as “inmate transported to clinic” and “inmate injuries noted” would increase the possibility that required critical details would not be excluded.

Lack of Retention of Department member Injury Photographs and/or Videos in Incident investigation Packages

For three of the 17 UOF incidents, photographs of Department member injuries were not included in the UOF incident investigation packages. However, photographs were taken and booked into evidence. Staff members from MCJ were able to obtain copies of the photographs from evidence for two of the three incidents. For the remaining incident, evidence had already been destroyed. Even though photographs are booked into evidence, not including the photographs in the UOF incident investigation packages limits accessibility to the photographs and critical evidence during the investigations.

CONCLUSION

Auditors performed analyses and made assessments to identify areas in need of improvement. The AAB considers the results of this audit to be a helpful management tool for all Department personnel. The evidence presented provides reasonable assurance that Department personnel are not strictly adhering to the MPP, CDM, and provisions of the Rosas Settlement Agreement related to UOF prevention, categorization, reporting, interviews, and investigations.

RECOMMENDATIONS

When Departmental policies and procedures are not adhered to, it results in an increased risk to the Department. Department management should disseminate the results of this audit to its personnel. Additionally, as best practice, Department management is encouraged to conduct recurring and ongoing briefing of the policies and procedures where issues were noted during the audit. The AAB considers the results of this audit to be a helpful management tool and therefore, makes the following recommendations:

1. It is recommended that MCJ supervisors consider revising the existing forms used by Department members to report the details of the UOF incidents to

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include questions and/or check boxes that would specifically address the details required to be included in the reports. (Objective No. 3 and Other Related Matters)

2. It is recommended that the supervisors completing the UOF incident investigations maintain copies of the photographs and/or videos of Department member injuries in the UOF incident investigation packages. (Objective No. 4 and Other Related Matters)

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View of Responsible Officials

On September 16, 2020, Custody Services Division command staff submitted a formal response to the AAB concurring with the audit results.

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This audit was submitted on this 23rd day of September 2020, by the Audit and Accountability Bureau. A copy of the audit was provided to the Office of Inspector General.

Original Signature on File at AAB

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