

Audit Division Report Audit of 2022 Investigation Timeframe Requirements

23-003

28 November 2023

The Audit Division conducted this audit—the fourth in a series of annual audits as required by Consent Decree paragraph 553—to assess whether the Bureau of Internal Affairs’ (BIA) complied with Consent Decree paragraphs 446(b), 471, 472, 474, 498, and 500. The Audit Division reviewed a total of 642 cases for the period 01 July 2022 to 31 December 2022.¹

SUMMARY AND PROPOSED PRIORITIZATION OF RECOMMENDATIONS & SUGGESTIONS

Recommendation and Suggestion Prioritization Table

No.	Summary	Priority
1A	The Department should undertake a systematic analysis to assess the investigative process, beginning to end, to identify and resolve inefficiencies that delay completion of investigations. This analysis (or another concurrent analysis) should assess BIA staffing to ensure the Bureau is sufficiently staffed to meet Consent Decree deadlines.	High
2A	The Department should undertake a systematic analysis to assess the investigative process, beginning to end, to identify and resolve inefficiencies that delay completion of investigations. This analysis (or another concurrent analysis) should assess Accountability Sergeant staffing to ensure that district-level investigations have sufficient staff to meet Consent Decree deadlines.	High
1B	The Department should require approval of requests for extensions by the Chief of BIA or their designee as stipulated by Consent Decree paragraph 471 and modify relevant directives as needed. Alternatively, the Department should confirm with the IMT that BIA’s current approach fulfills requirements of paragraph 471.	High
2B	The Department should require approval of requests for extensions by each district's respective District Commander as required by Consent Decree paragraph 472. Alternatively, the Department should confirm with the IMT that the current approach fulfills the requirements of paragraph 472.	High

¹ The 2022 Audit period was condensed to allow enough time for BIA to fully operationalize enhancements to CMS designed to streamline investigations and consequently improve the Department's ability to comply with various paragraphs of the Consent Decree and relevant Department directives. The enhancements were implemented and fine-tuned over the course of 2021 through June 2022.

4A	The Department should revise Special Order S08-01-03, "Communication Procedures and Timelines" and/or S08-01-08, "Post Investigation Log Number Procedures" Section IV. to require the upload of USPS tracking status reports to CMS for ASRs delivered by mail.	High
4B	The Department should weigh the advantages and disadvantages of requesting the IMT's agreement to revise the Consent Decree and relevant directives to require delivery and publication of ASRs within 60 days of the date cases are officially closed, after completion of the grievance process, if applicable.	High
5	For cases that do not require review by the Chief of BIA or their designee, the Department should work with the IMT to identify a date to be used in lieu of final disciplinary decision date as the start of the 60-day ASR publication window (e.g. investigative findings date, case closed date, etc.).	High
6	BIA should identify the shortcoming in the automated CCR process and make the necessary corrections.	Medium

See Appendix II for prioritization guidelines.

FINDING 1

Standards

Consent Decree paragraph 471: "The City and CPD will ensure that BIA arrives at the investigative findings and recommendations within 180 days of the initiation of the investigation. Any request for an extension of time must be approved in writing by the Chief of BIA or his or her designee."²

Current Practices

BIA arriving at investigative findings within 180 days of initiating the investigation

According to CMS data, of the 414 cases BIA closed in 2022:

- 182 (44.0%) cases arrived at investigative findings within 180 days or less of the initiation of the investigation.
- 232 (56.0%) cases arrived at investigative findings after 180 days of the initiation of the investigation.

Approval of extension requests

- Although Consent Decree paragraph 471 requires written approval of extension requests by the Chief of BIA or their designee, BIA informed the Audit Division that extensions are neither approved nor denied but only reviewed to determine the reason for an extension and allow investigators' supervisors the opportunity to review and provide feedback to investigators regarding investigations in addition to determining if cases are progressing in a timely manner.

² Note that the Audit Division used the date that the case is assigned to BIA as the date signifying the "initiation of the investigation." This date may differ from the date COPA received the complaint.

Reasons Current Practices do not Meet Standards

The Audit Division contacted BIA for insight into roadblocks hindering the bureau from completing investigations more expeditiously. BIA reported that downstream consequences of staffing-related concerns (e.g. shortages, caseload, sworn member details, furloughs, vacations) were obstacles to completing investigations within timelines specified by the Consent Decree.

Additionally, BIA currently does not require approval of extension requests by any party.

Implications

Results of the Audit Division's analysis indicate the Department is not in compliance with Consent Decree paragraph 471. Completing investigations of misconduct thoroughly and expeditiously aids the Department in fostering a culture of accountability and transparency among the public and members of the Department.

Recommendation 1

- A. The Department should undertake a systematic analysis to assess the investigative process, beginning to end, to identify and resolve inefficiencies that delay completion of investigations. This analysis (or another concurrent analysis) should assess BIA staffing to ensure the Bureau is sufficiently staffed to meet Consent Decree deadlines.
- B. The Department should require approval of requests for extensions by the Chief of BIA or their designee as stipulated in Consent Decree paragraph 471. Alternatively, the Department should confirm with the IMT that BIA's current approach fulfills requirements of paragraph 471.

Auditee Response

See Appendix III

FINDING 2

Standards

Consent Decree paragraph 472: "The City and CPD will ensure that the districts arrive at the investigative findings and recommendations within 90 days of the initiation of an investigation. Any request for an extension of time must be approved in writing by the appropriate District Commander."³

Current Practices

Districts arriving at investigative findings within 90 days of initiating the investigation

Of the 228 cases closed by Districts:

³ Note that the Audit Division used the date that the case is assigned to BIA as the date signifying the "initiation of the investigation." This date may differ from the date COPA received the complaint.

- 26 (11.4%) cases arrived at the investigative findings within 90 days or less of the initiation of the investigation.
- 202 (88.6%) cases arrived at the investigative findings after 90 days of the initiation of the investigation.

Approval of extension requests

- Although Consent Decree paragraph 472 requires written approval of extension requests by the Chief of BIA or their designee, BIA informed the Audit Division that extensions are neither approved nor denied but only reviewed to determine the reason for an extension and allow investigators' supervisors the opportunity to review and provide feedback to investigators regarding investigations and determine if the cases are progressing in a timely manner.

Reason Current Practices do not Meet Standards

The Audit Division contacted BIA for insight into roadblocks hindering Accountability Sergeants from completing investigations more expeditiously. BIA reported that downstream consequences of staffing related concerns (e.g., shortages, caseload, sworn member details, furloughs, vacations) were obstacles to completing investigations within timelines specified by the Consent Decree.

Additionally, BIA currently does not require approval of extension requests by the District Commander.

Implications

Results of the Audit Division's analysis indicate the Department is not in compliance with Consent Decree paragraph 472. Completing investigations of misconduct thoroughly and expeditiously aids the Department in fostering a culture of accountability and transparency among the public and members of the Department.

Recommendation 2

- A. The Department should undertake a systematic analysis to assess the investigative process, beginning to end, to identify and resolve inefficiencies that delay completion of investigations. This analysis (or another concurrent analysis) should assess Accountability Sergeant staffing to ensure that district-level investigations have sufficient staff to meet Consent Decree deadlines.
- B. The Department should require approval of requests for extensions by each district's respective District Commander as required by Consent Decree paragraph 472. Alternatively, the Department should confirm with the IMT that the current approach fulfills the requirements of paragraph 472.

Auditee Response

See Appendix III

FINDING 3

Standards

Consent Decree paragraph 474: “CPD will ensure that if BIA does not arrive at the investigative findings and recommendations within 180 days, or an Accountability Sergeant does not arrive at the investigative findings and recommendations within 90 days, BIA will notify, within five days of the end of the designated timeframe, the complainant or complainant representative, and the involved CPD member, or his or her counsel (unless such notification would compromise the integrity of the investigation). Such notification will include the reasons for the inability to complete the administrative investigation within the designated timeframe. BIA or the Accountability Sergeant will update such notice every 90 days until the administrative investigation is completed.”

Current Practices

According to BIA, notifications regarding the extension of investigations are automatically delivered from CMS to complainants or their representatives by e-mail, if the complainant or designee provided this information. If complainants provided mailing addresses, extension notifications are delivered by mail.

The scope of this year’s annual audit includes cases *closed* for the period 1 July 2022 to 31 December 2022.⁴ To measure the Department's compliance with Consent Decree paragraph 474, the Audit Division identified cases eligible for extensions (i.e., cases that did not reach investigative findings within 180 days of the initiation of the investigation for BIA and 90 days for districts). Of the 14 cases opened during the audit period, each case was assigned to BIA and closed within 180 days of initiation of the investigation. Therefore, there was no need for investigators to request extensions or deliver extension notifications to complainants during the audit period evaluated.

Reasons Current Practices do not Meet Standards

Not Applicable

Implications

Not Applicable

Recommendation 3

Not Applicable

Auditee Response

See Appendix III

⁴ The 2022 Audit period was condensed to allow enough time for BIA to fully operationalize enhancements to CMS designed to streamline investigations and consequently improve the Department's ability to comply with various paragraphs of the Consent Decree and relevant Department directives. The enhancements were implemented and fine-tuned over the course of 2021 through June 2022.

FINDING 4

Standards

Consent Decree paragraphs 446(b): "within 60 days of the final disciplinary decision the complainant will be provided a copy of the Administrative Summary Report."⁵

Current Practices

The Department defines an Administrative Summary Report (ASR) as an electronic record that provides an abstract of the Log Number investigation after a final disciplinary decision is reached and includes the investigating body's findings and conclusions for each allegation of misconduct, including any discipline recommended. The Audit Division was informed that ASRs are delivered to complainants via e-mail, if the complainant shared an e-mail address. Otherwise, ASRs are delivered by mail to the address provided by the complainant, unless the complainant opted to withhold this information or requested full anonymity.

Of the 642 cases closed in 2022, CMS data shows 632 (98.4%) cases with ASR publish dates (i.e., the date an ASR is posted publicly to a website hosted by the Department). The Audit Division analyzed qualitative data (i.e., investigators' entries into the notes section of CMS and e-mail communications) extracted from CMS to validate delivery of ASRs to complainants.

Of the 642 cases closed in 2022, CMS data indicates that the cases were reported by 369 complainants.

- 27 (5.7%) of ASRs were not delivered to complainants because the complainants were not named in the complaint or preferred to remain anonymous.
- 133 (36.0%) ASRs were sent to complainants via e-mail
 - 28 of 133 ASRs delivered to complainants by e-mail included a final disciplinary decision date. Of these 28, 8 (28.6%) ASRs were e-mailed to complainants within 60 days of the final disciplinary decision date, 19 (67.9%) were e-mailed ASRs in excess of 60 days from the final disciplinary decision date. 1 (3.6%) case displayed an ASR delivery date prior to the final disciplinary decision date.⁶
- For ASRs delivered by mail, the Audit Division gleaned from its review of qualitative data extracted from CMS and files uploaded to CMS that the Department does not consistently upload to CMS information used to document that ASRs were mailed and delivered. Consequently, the Audit Division was unable to determine if ASRs were delivered to each

⁵ Consent Decree paragraph 755 and G08-01-01 - COMPLAINT AND DISCIPLINARY DEFINITIONS Section II.Y. define the Final Disciplinary Decision as the "final decision of the Superintendent or his or her designee regarding whether to issue or recommend discipline after review and consideration of the investigative findings and recommendations, including after any additional investigation conducted as a result of such review." G08-01-01 - COMPLAINT AND DISCIPLINARY DEFINITIONS Section II.Y.2. goes on to note that "For BIA investigations, the Chief of BIA (or his or her designee) has been designated by the Superintendent to provide the final disciplinary decision."

⁶ S08-07.VI.A.2.a. notes that in an accountability sergeant or BIA Investigator investigation, the assistant advocate will forward all accused members [sic. "cases"] with **sustained** allegations to the Chief of BIA for the final disciplinary decision. Despite BIA reaching a finding of "Not Sustained" for this case, the case received a final disciplinary decision and corresponding final disciplinary decision date stamp. After discussing the matter with BIA, the Audit Division was informed that the case could have been reopened after the ASR was issued. Upon review of information captured in CMS for this case, the Audit Division was unable to identify information supporting this supposition.

complainant or their designee and validate whether complainants were provided a copy ASRs within 60 days of the final disciplinary decision.

Reasons Current Practices do not Meet Standards

Inability to assess compliance for ASRs delivered by mail

- Documentation that would serve as proof of delivery, such as certified mail receipts and/or USPS⁷ parcel tracking status reports were inconsistently uploaded to CMS. The Audit Division was informed by BIA that certified mail receipts are no longer retained and uploaded to CMS due to staffing shortages⁸ and the relatively time-consuming process of mailing ASRs. However, BIA retains the envelopes used to mail ASRs that were undeliverable and returned to the Department in addition to hard copies of the ASRs included in returned envelopes. This documentation is retained to serve as proof that the Department attempted to deliver ASRs. Considering the lack of documentation that would serve as proof of the Department's attempts at mailing ASRs, the Audit Division was unable to determine the extent to which the Department complies with paragraph 446(b) of the Consent Decree.

Delayed delivery of ASRs

- Upon inquiring about the reason for delays in delivering ASRs via e-mail, the Audit Division was informed that ASRs are redacted and delivered to complainants after cases are closed *and* suspensions are served, for investigations that resulted in suspensions.
- The Audit Division was also informed that accused members opting to file grievances to contest the Department's disciplinary decision may also contribute to delays in publishing ASRs. Members may reject the Department's disciplinary decision and elect to file grievances to appeal their cases. Filing grievances requires an additional review of the investigation which ultimately extends the duration of the case and potentially delays publishing of the ASR. There are no stipulations in the Consent Decree that allow extensions for the delivery of ASRs.⁹

Implications

The Department is unable to measure its ability to comply with Consent Decree paragraph 446(b). Informing complainants of the outcome of investigations is paramount in improving the public's

⁷ The Audit Division was informed that the Department utilizes USPS to deliver correspondence to complainants or their designees

⁸ The ASR Review team is responsible for reviewing, redacting and delivering ASRs. The ASR Review team currently consists of 1 person who is also responsible for developing CMS refresher training content and executing CMS training. However, the Department has recently hired a second reviewer who must complete training before starting the position.

⁹ S08-01-08 Post-Investigation Log Number Procedures Section IV.B. "BIA will notify the reporting party/subject in writing if an accused member elects to file a labor grievance relating to any discipline imposed due to a sustained log number investigation within ten days of receiving notice of the grievance."

trust of the Department. However, the Department is currently unable to determine if complainants are consistently informed of the outcome of investigations.

Recommendation 4

- A. The Department should revise Special Order S08-01-03, "Communication Procedures and Timelines" and/or S08-01-08, "Post Investigation Log Number Procedures" Section IV. to require the upload of USPS tracking status reports to CMS for ASRs delivered by mail.
- B. The Department should weigh the advantages and disadvantages of requesting the IMT's agreement to revise the Consent Decree and relevant directives to require delivery and publication of ASRs within 60 days of the date cases are officially closed, after completion of the grievance process, if applicable.

Auditee Response

See Appendix III

FINDING 5

Standards

Consent Decree paragraph 500: **"For all misconduct investigations, BIA or COPA will publish the Administrative Summary Report within 60 days of the final disciplinary decision."**

Current Practices

Of the 642 closed cases, 632 had ASR publish dates in 2022:

- 224 (34.89%) had a Final Disciplinary Decision Date and an ASR Publish Date. Of these,
 - 48 (21.4%) had an ASR Publish Date within 60 days of the Final Disciplinary Decision Date.
 - 173 (77.2%) had an ASR Publish Date in excess of 60 days after the Final Disciplinary Date
 - 3(1.3%) had an ASR Publish Date prior to the Final Disciplinary Decision Date¹⁰
- 408 (63.55 %) had "NULL" values for a Final Disciplinary Decision Date but had an ASR Publish Date. Findings for these cases were distributed as follows:
 - 378 cases reached the finding "NO ACTION TAKEN / NOT SUSTAINED / EXONERATED / UNFOUNDED"
 - 13 were assigned the finding "NO ACTION TAKEN / NO AFFIDAVIT"
 - 6 resulted in suspensions
 - 5 reached the finding "REPRIMAND"
 - 3 were classified as "RESIGNED - NOT SERVED"
 - 2 were classified as "ADMINISTRATIVELY CLOSED" following investigation
 - 1 was assigned the finding "VIOLATION NOTED"
- 10 (1.6%) had "NULL" values for Final Disciplinary Decision Dates and ASR Publish Dates.

¹⁰ The Audit Division was informed by BIA leadership that these cases were likely closed and reopened after the ASR was delivered however, the Audit Division was unable to find information in CMS supporting this supposition.
Audit of 2022 Investigation Timeframe Requirements

- 3 of 10 reached the finding "NO ACTION TAKEN / NOT SUSTAINED / EXONERATED / UNFOUNDED". Information captured in CMS shows that each case went through CCR.
- 7 of 10 were investigated, went through CCR but were eventually closed and assigned the finding, "NO ACTION TAKEN / NO AFFIDAVIT"
- According to information captured in CMS, ASRs were not delivered for any of the 10 cases.

Reasons Current Practices do not Meet Standards

Consent Decree paragraph 755 and G08-01-01 - COMPLAINT AND DISCIPLINARY DEFINITIONS Section II.Y. define the Final Disciplinary Decision as the "final decision of the Superintendent or his or her designee regarding whether to issue or recommend discipline after review and consideration of the investigative findings and recommendations, including after any additional investigation conducted as a result of such review." G08-01-01 - COMPLAINT AND DISCIPLINARY DEFINITIONS Section II.Y.2. goes on to note that "For BIA investigations, the Chief of BIA (or his or her designee) has been designated by the Superintendent to provide the final disciplinary decision."

For cases where Final Disciplinary Decision Date is populated, which indicates that the Chief of BIA or designee provided the final disciplinary decision, the Department published the majority (77%) of ASRs in excess of 60 days of this date. The Audit Division was informed that ASRs are redacted, delivered to complainants and published after cases are closed and suspensions are served, for investigations that resulted in suspensions to ensure there are no changes in penalties prior to disseminating ASRs outside of the Department.

The Audit Division was also informed that accused members filing grievances to contest the Department's disciplinary decision may also contribute to delays in publishing ASRs. Members may reject the Department's disciplinary decision and elect to file grievances to appeal their cases. Filing grievances requires an additional review of the investigation which ultimately extends the duration of the case and potentially delays publishing of the ASR. There are no stipulations in the Consent Decree that allow extensions for the delivery of ASRs.

The Audit Division was informed of circumstances that may result in the publishing of an ASR although the BIA Chief or designee does not provide a final disciplinary decision. For example, allegations that are not sustained would not require the BIA Chief to provide a final disciplinary decision.¹¹ Additionally, members may resign before the final disciplinary decision is reached and consequently, the Final Disciplinary Decision Date would remain null.

¹¹ S08-01-07 "Command Channel Review" Section VI.A.2a., "When the CCR process has been completed for all accused member in an Accountability Sergeant or BIA Investigator investigation, the assistant advocate will forward all accused members with sustained allegation to the Chief of BIA for final disciplinary decision. Section VI.A.3. "For members who have no sustained allegations, when CCR is complete, the assistant advocate will place the Log Number investigation into CLOSED/FINAL status for reference and retention in the accused members' file under the applicable bargaining agreements, court orders, and state law."

Lastly, the Audit Division's analysis shows that each of the 10 cases¹² where there were "NULL" values for both Final Disciplinary Decision Dates and ASR Publish Dates were categorized as Information/Complaint, not Complaint Registers.¹³ The Audit Division was informed that ASRs are not published for Information/Complaints.

Implications

The Department has fallen short of meeting compliance with paragraph 500 of the Consent Decree. The timely publishing of outcomes of investigations publicly promotes transparency and helps foster the public's trust in the Department's ability to conduct fair and timely investigations. However, failing to promptly share the outcome of investigations publicly may adversely affect the public perception of the Department.

Recommendation 5

For cases that do not require review by the Chief of BIA or their designee, the Department should work with the IMT to identify a date to be used in lieu of final disciplinary decision date as the start of the 60-day ASR publication window (e.g., investigative findings date, case closed date, etc.).

Auditee Response

See Appendix III

FINDING 6a

Standards

Consent Decree paragraph 498: "The City and CPD will ensure that any command channel review conducted [for less serious administrative investigations] is complete within 30 days."

Special Order S08-01-07 - COMMAND CHANNEL REVIEW Section III (B) (1) and (2) (EFFECTIVE DATE: 31 December 2022): "All completed complaint register investigations subject to Command Channel Review will receive two levels of review by exempt-level supervisors in the accused member's chain of command. 1) Each level of Command Channel Review will be conducted within fifteen calendar days. Any two-level Command Channel Review process will be concluded within thirty days. 2) If the exempt-level supervisor does not complete the review within fifteen calendar days, the exempt supervisor is deemed to concur with the findings and recommended disciplinary actions."

¹² The Audit Division included these 10 cases in its analysis because each case reached investigative findings and appears to have completed Command Channel Review. The Audit Division's review of information captured in CMS for these cases shows that 6 of 10 cases appear to have gone through Command Channel Review although there is no record of the Command Channel Review dates in the data supplied by the Department's CMS vendor. The remaining 4 cases include Command Channel Review dates in the data supplied by the Department's CMS vendor.

¹³ General Order G08-01-01 ASR Complaint and Disciplinary Definitions Section II. AE (1) and (2) (EFFECTIVE DATE 31 December 2022) **Information/Complaint:** the classification given to a Log Number when it is initiated to document a complaint (allegation of misconduct). **Complaint Register (CR):** the classification given to a Log Number by a BIA investigator or accountability sergeant after he or she completes the preliminary investigation and determines that a sworn affidavit is not required to conduct a full investigation or, in limited circumstances where a sworn affidavit is required, obtains a sworn affidavit or sworn affidavit override.

Current Practices

451 (70.3%) of the 642 cases closed in 2022 where BIA investigators completed investigative findings went through the Command Channel Review (CCR) process.¹⁴ Of these 451 cases, 56 met the criteria used to identify the most serious administrative investigations, as specified in S08-01-07 III.C. and were excluded from this analysis (see Finding 6b below for more information on these cases). The remaining 395 cases were deemed less serious investigations and were not subject to a third level of CCR.

Of the 395 CCR cases that went through First Level review:

- 377 (95.4%) were reviewed within 15 days. Of these, 197 (50.3%) were BIA cases and 180 (49.7%) were District cases.
- 18 (4.6%) CCR cases were not reviewed within 15 days. Of these, 12 (66.7%) were BIA cases and 6 (33.3%) were District cases.

Of the 394¹⁵ CCR cases that went through Second Level review:

- 393 (95.7%) went from completing First Level review to completing Second Level review within 15 days. Of these, 207 (52.7%) were BIA cases and 186 (47.3%) were District cases.
- 1 (0.3%) case, assigned to BIA, was not reviewed within 15 days.

Of the 394 CCR cases that completed First and Second Level CCR:

- 379 (96.2%) cases went through the Command Channel Review process within 30 days. Of these, 199 (52.5%) were BIA cases and 160 (47.5%) were District cases.
- 15 (3.8%) were not reviewed within 30 days. Of these 9 (60.0%) were BIA cases and 6 (40.0%) were District cases.

Reasons Current Practices do not Meet Standards

While the overwhelming majority of cases completed CCR within the deadlines specified by Consent Decree paragraph 498 and S08-01-07.III.B.1-2, the Audit Division's analysis indicates that a small subset of the population fell short of meeting the abovementioned deadlines.

BIA previously informed the Audit Division that the CCR process was automated so that cases would be considered automatically approved if they were still in the CCR queue following the allotted 15 days at each level. The above results indicate the automated process is not fully functioning.

Implications

Completing investigations of misconduct thoroughly and expeditiously aids the Department in fostering a culture of accountability and transparency among the public and members of the Department. However, the Department has experienced difficulty meeting timeframe

¹⁴ Special Order S08-01-07 identifies circumstances under which a CCR bypass is authorized. The Audit Division did not assess whether cases that did not go through CCR were exempt from this process according to exceptions outlined in S08-01-07 III.A.1-5.

¹⁵ One case went from Command Channel review level one to BIA Chief level, skipping level two. This case was excluded from the total cases that went through two levels.

requirements for completing CCR and consequently, has fallen short of meeting compliance with Consent Decree paragraph 498 and requirements specified in S08-01-07.III.B.1-2.

Recommendation 6a

BIA should identify the shortcoming in the automated CCR process and make the necessary corrections.

Auditee Response

See Appendix III

FINDING 6b

Standards

Consent Decree paragraph 498: “The City and CPD will ensure that any command channel review conducted is complete within 30 days...**for the most serious administrative investigations...up to 45 days will be provided for command channel review.**”¹⁶

Special Order S08-01-07 - COMMAND CHANNEL REVIEW Section III (B) (5) (EFFECTIVE DATE: 31 December 2022): “Certain circumstances and more serious allegations, as outlined in Item III-C of this directive, will require a third level of Command Channel Review conducted by the First Deputy Superintendent. Any three-level Command Channel Review process will be concluded within forty-five days.”

Current Practices

Of the 56 cases BIA closed in 2022 that underwent a third level of CCR, all were reviewed within 45 days.

Reasons Current Practices do not Meet Standards

Not applicable.

Implications

Not applicable.

Recommendation 6b

Not applicable.

SCOPE & METHODOLOGY

BIA’s CMS vendor provided the Audit Division with the data required for this audit which included closed case log numbers for the period from 01 July 2022 to 31 December 2022. The Audit Division met in-person, virtually, and via phone with BIA officials and vendor representatives

¹⁶ Note that the Audit Division did not assess the Department’s compliance with the entirety of paragraph 498. The non-assessed portion is as follows: “Within 30 days of the Effective Date, CPD may draft a policy that provides, for the most serious administrative investigations, the circumstances under which up to 45 days will be provided for command channel review. The draft policy will be provided to the Monitor for review and approval.”

several times throughout the project to gain a better understanding of the data and BIA processes. The Audit Division also reviewed relevant Department directives as well as publicly available information on COPA's and the City of Chicago Office of Inspector General's websites. Audit Division personnel conducted all data analyses presented in this report. The data analyzed in this audit relate only to BIA—not COPA—investigations. Additionally, cases that were administratively closed were not included in the Audit Division's analysis.

The Audit Division relied on the CMS vendor to provide complete data. The Audit Division did not review any non-CMS data and/or documentation in BIA's possession (e.g., paper files) as part of this audit.

The Audit Division conducted this analysis between January 2023 and September 2023.

THE AUDIT DIVISION

The mission of the Audit Division is to provide quality, independent, and objective assessments of the operations, processes, and internal controls in support of the Chicago Police Department. All audits and reviews are intended to provide objective information to inform decision-making and to help improve the internal transparency and accountability of the Department's operations.

The Audit Division recognizes the standards and guidance contained in the Institute of Internal Auditor's *International Standards of the Professional Practice of Internal Auditing*. The Audit Division strives to comply with these standards in order to maintain the highest caliber of professionalism in conducting its audits and reviews.

Please contact audit@chicagopolice.org with any questions about this report.

APPENDIX I: Assessing the Efficacy of Recommendations Implemented Following the 2020 Investigative Timeframes Audit

In July 2022, the Audit Division completed a follow-up of its *Audit of 2020 Investigation Timeframe Requirements* to assess the Bureau of Internal Affairs' (BIA) progress in implementing the audit's recommendations. The original audit (the "2020 Audit") assessed whether BIA's new Case Management System (CMS) collected the data necessary to evaluate BIA's compliance with consent decree paragraphs 446(a), 446(b), 471, 472, 474, 498, and 500 for the period 01 January 2020 to 31 December 2020.

Recommendations from the 2020 Audit, the implementation status of each recommendation as reported in the 2022 Follow-up Report and impact of each implemented recommendations on the Department's performance are included below.

2020 Audit	Recommendation	Implementation Status	Performance Impact
Recommendation 2a/3a	The Audit Division recommends that BIA, working with its CMS vendor, incorporate data controls within CMS that require entry of data for critical fields (e.g., Agency, CPD Assignment Date, and Investigative Findings Date) before a case can be fully closed.	Implemented	Improved
Recommendation 2b_i/3b_i	[BIA should] Require its investigators [for BIA] and Accountability Sergeants [for Districts] to log extension dates in the existing CMS field.	Implemented	Improved
Recommendation 2b_ii/3b_ii	[BIA should] Work with its CMS vendor to create and utilize a distinct digital storage location linked to or within CMS for uploaded written time extension approvals.	Implemented	No improvement
Recommendation 4a	[BIA should] Work with its CMS vendor to utilize a distinct digital storage location linked to or within CMS for uploaded notice of extension letters sent to the complainant or their representative.	Implemented	Unable to assess, more data needed
Recommendation 4b	[BIA should] Institute controls to ensure that investigators and Accountability Sergeants uniformly document notice of extension letters	Implemented	Unable to assess, more data needed

	sent to the complainant or their representative.		
Recommendation 5	The Audit Division recommends that BIA, working with its CMS vendor, create and utilize a field that documents the date BIA provided a copy of the ASR to the complainant.	Implemented	Minimal improvement—changes not systematically enforced
Recommendation 6	The Audit Division recommends that BIA, working with its CMS vendor, create and utilize controls ensuring that the <i>ASR Publish Date</i> field is completed before a case can be fully closed.	Implemented	Improved
Recommendation 7a	The Audit Division recommends that BIA institute controls to ensure that cases in CCR are automatically forwarded to the next level of review at the conclusion of the fifteen-day review period. [sic. To ensure compliance with S08-01-03.III.B.1-2 (Effective 20 March 2020)]	Implemented	Improved
Recommendation 8	The Audit Division recommends that BIA, working with its CMS vendor, develop a process for archiving data used to generate its quarterly reports.	Implemented	Improved

2020 Audit Recommendation 2a/3a.

The Audit Division recommends that BIA, working with its CMS vendor, incorporate data controls within CMS that require entry of data for critical fields (e.g., Agency, CPD Assignment Date, and Investigative Findings Date) before a case can be fully closed.

Status

Implemented

Performance Impact

Improved

The 2020 Audit reported that 10 of 236 (4.2%) of cases assigned to BIA and 2.1%, 5 of 235 cases assigned to Districts included blanks in critical fields required to assess compliance with paragraphs 471 and 472 of the Consent Decree.

As part of a series of CMS enhancements completed after the 2020 Audit period, the Department implemented data controls within CMS that require entry of data in critical fields. The Audit Division's analysis of data for the 2022 Audit shows that there were no blank values for critical

fields, Agency, CPD Assignment Date and Investigative Findings Date. This improvement allows the Department to fully assess compliance with paragraphs 471 and 472 of the Consent Decree.

The tables below include a comparison of the Department's ability to meet Consent Decree requirements specified in paragraphs 471 (BIA) and 472 (District) for cases closed in 2020 contrasted to 2022:

Paragraph 471 (BIA)	2020 Audit	2022 Audit
% of cases arriving at investigative findings within 180 days	48.7% (115)	44.0% (182)
% of cases arriving at investigative findings after 180 days	47.0% (111)	56.0% (232)
% of cases where critical fields were blank	4.2% (10)	n/a
n (Cases)	236	414

Paragraph 472 (District)	2020 Audit	2022 Audit
% of cases arriving at investigative findings within 90 days	28.9% (68)	11.4% (26)
% of cases arriving at investigative findings after 90 days	68.9% (162)	88.6% (202)
% of cases where critical fields were blank	2.1% (5)	n/a
n (Cases)	235	228

2020 Audit Recommendations 2b_i. and 3b_i and 2b_ii and 3b_ii

[BIA should] Require its investigators [for BIA] and Accountability Sergeants [for Districts] to log extension dates in the existing CMS field.

[BIA should] Work with its CMS vendor to create and utilize a distinct digital storage location linked to or within CMS for uploaded written time extension approvals.

Status

Both recommendations were implemented

Performance Impact

No improvement

In its 2020 Audit, the Audit Division was unable to fully assess compliance with Consent Decree paragraphs 471 and 472 pertaining to the approval of extension requests because extension requests were not systematically logged in CMS.

The Department has since included a section in CMS dedicated to extensions (e.g. submission and management of extensions) and developed a process that automatically captures the date extensions were submitted by investigators and Accountability Sergeants. However, the Audit Division was informed during the 2022 Audit by BIA's leadership that extension requests are neither approved nor denied, as noted earlier in this report. Additionally, there were no extensions generated for cases opened during the 2022 audit period for the Audit Division to assess.

Until BIA modifies its process to require approval of extensions by the relevant parties noted in Consent Decree paragraphs 471 and 472, the Department is unable to assess compliance with both paragraphs.

2020 Audit Recommendations 4a and 4b

[BIA should] Work with its CMS vendor to utilize a distinct digital storage location linked to or within CMS for uploaded notice of extension letters sent to the complainant or their representative.

[BIA should] Institute controls to ensure that investigators and Accountability Sergeants uniformly document notice of extension letters sent to the complainant or their representative.

Status

Both recommendations were implemented

Performance Impact

Unable to assess, more data needed

In its 2020 Audit, the Audit Division ascertained that extension notifications are not systematically retained in CMS which prevented the use of CMS to assess compliance with Consent Decree paragraph 474. The Department has since included a section in CMS dedicated to the management of extensions. Within this section of CMS, once investigators annotate the extension, a standardized form letter or e-mail notification (if the complainant provided an e-mail address) is automatically generated. While letters must be mailed, e-mail notifications are automatically delivered to the complainant or their designee.

However, the Audit Division was unable to assess compliance during the 2022 Audit because each case opened during the 2022 audit period¹⁷ was also closed within deadlines specified in the Consent Decree. Therefore, no extensions were required. The Audit Division will assess BIA's compliance with this Consent Decree requirement in future audits.

¹⁷ The 2022 Audit period was condensed to allow enough time for BIA to fully operationalize recently implemented enhancements to CMS designed to streamline investigations and consequently improve the Department's ability to comply with various paragraphs of the Consent Decree and relevant Department directives.

2020 Audit Recommendation 5

The Audit Division recommends that BIA, working with its CMS vendor, create and utilize a field that documents the date BIA provided a copy of the ASR to the complainant.

Status

Implemented

Performance Impact

Minimal improvement—changes not systematically enforced

In its 2020 Audit, the Audit Division was unable to assess the Department's compliance with Consent Decree paragraph 446(b) because no field existed in CMS to capture whether BIA provided a copy of the ASR to the complainant.

The Department has since enhanced CMS to include a field that captures the dates ASRs are mailed to complainants and automatically captures the dates ASRs are delivered to complainants via e-mail.

Despite the Department's progress implementing the abovementioned enhancements, the Audit Division was unable to fully assess compliance with paragraph 446(b) as tracking information that can be used to validate delivery of ASRs by mail to complainants is not consistently uploaded to CMS.

2020 Audit Recommendation 6

The Audit Division recommends that BIA, working with its CMS vendor, create and utilize controls ensuring that the *ASR Publish Date* field is completed before a case can be fully closed.

Status

Implemented

Performance Impact

Improved

In its 2020 Audit, the Audit Division was unable to fully assess compliance for Consent Decree paragraph 500 due to a lack of data controls that would require population of the field, ASR Publish Date.

However, the Audit Division analyzed data for cases that included a Final Disciplinary Decision Date and an ASR Publish Date to measure the Department's ability to meet paragraph 500's requirements among these cases.

The Audit Division's analysis showed that 16 of 1,406 (1.14%) cases included a Final Disciplinary Decision Date and an ASR Publish Date. Of these 16 cases, there were *no* ASRs published within 60 days of the final disciplinary decision.

The Department has taken steps to implement controls that automate the population of ASR Publish Date in CMS. The Department has also created a field in CMS that tracks the time elapsed between Final Disciplinary Decision date and ASR Publish Date. Since implementing the abovementioned enhancements, 224 of 747 (30%) cases closed during the 2022 audit period included a Final Disciplinary Decision Date and an ASR Publish date.¹⁸ As reported above, of these cases:

- 48 (21.4%) had an ASR Publish Date within 60 days of the Final Disciplinary Decision Date.
- 173 (77.2%) had an ASR Publish Date in excess of 60 days after the Final Disciplinary Decision Date
- 3 (1.3%) had an ASR Publish Date prior to the Final Disciplinary Decision Date

2020 Audit Recommendations 7a

The Audit Division recommends that BIA institute controls to ensure that cases in CCR are automatically forwarded to the next level of review at the conclusion of the fifteen-day review period. [sic. To ensure compliance with S08-01-03.III.B.1-2 (Effective 20 March 2020)].

Status

Implemented

Performance Impact

Improved

BIA informed the Audit Division of the CMS algorithm that automatically forwards cases from the start of CCR to the First Level after 15 days, then first level to the Second Level of CCR after 15 days.

Enhancements made to CMS in 2021, during the 2020 Audit period¹⁹ allow the Department to more precisely identify the duration of the First Level CCR process. As the methodology for how this metric is calculated has changed, the Audit Division is unable to compare the percentage of cases completing First Level CCR within 15 days between the 2020 and 2022 Audits.

¹⁸ During the 2020 Audit, Finding 6 included closed cases where there was no affidavit in its total count of cases closed in 2020. For the sake of comparing 2022's performance relative to results reported in the 2020 Audit, the Audit Division also included cases where there was no affidavit in its calculation of cases closed in 2022. This methodology is only applicable to Finding 6 within Appendix I. Therefore, the number of cases closed in Appendix I for Finding 6 differs from the figure reported throughout the remainder of the report.

¹⁹ The 2020 Audit period commenced in April 2021 and closed November 2021. The 2020 Audit encompassed cases closed between 01 January 2020 through 31 December 2020.

However, measuring relative performance between the 2020 and 2022 Audits for the percentage of cases going from First Level review to Second Level review within 15 days is feasible as the methodology used to calculate this metric has not changed. The 2022 Audit reports 393 of 394 CCR cases (95.7%) completed First Level review to Second Level review within 15 days while the 2020 Audit reported 117 of 126 (92.9%) cases completed First to Second Level Review within 15 days.

2020 Audit Recommendations 8

The Audit Division recommends that BIA, working with its CMS vendor, develop a process for archiving data used to generate its quarterly reports.

Status

Implemented

Performance Impact

Improved

While the 2020 Audit reported 1,406 closed cases, BIA's Quarter 4 2020 report references a total of 1,408 cases closed in 2020. BIA also queried relevant databases used to retain case data and provided a separate datafile to validate the figures included in the Quarter 4 2020 report, at the request of the Audit Division. This file included 1,405 of the 1,408 cases included in the Quarter 4 2020 report.

The three non-matching cases were identified as cases that were closed in 2020 but reopened at a later date. The Audit Division was also informed that historical data for these cases was overridden once updated information for each case was input into CMS.

During the 2022 audit period, BIA informed the Audit Division of an automated process, run monthly, that extracts data used for the preparation of Annual and Quarterly reports. The data, once extracted from the Department's databases is archived in a Tableau workbook and remains static.

Upon cross-referencing results of the archived dataset used to generate the Quarter 3 2022 and Quarter 4 2022 reports to data extracted directly from CMS, supplied by the Department's CMS vendor, the Audit Division confirmed that there were no discrepancies between the number of unique log numbers included in the archived data and CMS data supplied by the Department's CMS vendor.

APPENDIX II: RECOMMENDATION PRIORITIZATION GUIDELINES

The Audit Division consults the following rubric to assess the priority level of recommendations and suggestions made in audit reports.

Recommendation and Suggestion Prioritization Guidelines

Immediate	<ul style="list-style-type: none"> The Recommendation is intended to alleviate a major legal, safety, and/or compliance risk.
High	<ul style="list-style-type: none"> Significant failures in the majority of samples tested ($\geq 50\%$). The Recommendation will impact a significant portion of the Department. The Recommendation is related to the Consent Decree. The recommendation addresses a major safety risk to either members of the Department or the public. The recommendation aims to prevent potential disasters or crises situations. The recommendation addresses a risk that poses significant reputational harm to the Department. The recommendation addresses an operational risk repeatedly identified internally or by an external agency repetitively. The recommendation is a prerequisite to completing another high priority risk.
Medium	<ul style="list-style-type: none"> Moderate failures in many samples tested ($\geq 67.5\%$). The Recommendation is related to compliance with Department rules. The Recommendation will impact multiple units or a large number of people in one unit. The recommendation addresses a risk that may pose some reputational harm to the Department. The recommendation addresses an operational risk the Department has a high likelihood of repeating. Recommendation compliments a high priority recommendation.
Low	<ul style="list-style-type: none"> Minor failures in some of the samples tested ($\geq 85\%$). The Recommendation or Suggestion is related to best practices. The Department does not need new equipment or resources to implement the Recommendation or Suggestion. The Recommendation or Suggestion will impact one unit or a small number of members in multiple units. The recommendation does not address a risk that poses reputational harm to the Department. The recommendation addresses an operational risk the Department has a low likelihood of repeating. Recommendation can be implemented as a standalone action and can be implemented over a long period without immediate negative consequences.



APPENDIX III: BUREAU OF INTERNAL AFFAIRS – RESPONSE TO AUDIT

**Office of the Superintendent
 Bureau of Internal Affairs**

14 November 2023

TO: Matthew Spears
 Assistant Director
 Audit Division

FROM: Yolanda L. Talley
 Chief
 Bureau of Internal Affairs

SUBJECT: BIA Response to Audit of 2022 BIA Investigation Timeframe Requirements

The undersigned is submitting the BIA response as requested by for the Audit Division's draft Audit of 2022 Investigation Timeframe Requirements.

CPD Audit Recommendation	BIA Response
<p>1A: The Department should undertake a systematic analysis to assess the investigative process, beginning to end, to identify and resolve inefficiencies that delay completion of investigations. This analysis (or another concurrent analysis) should assess BIA staffing to ensure the Bureau is sufficiently staffed to meet Consent Decree deadlines.</p>	<p>BIA intends to conduct an analysis of the investigative process in IMR10. This analysis will include identification of delays to the investigative process and resolutions to improve the investigation timelines.</p> <p>BIA conducts a yearly staffing and equipment needs assessment that analyzes the optimal caseload per BIA investigator and Accountability Sergeant, and the number of open cases to determine staffing needs. The 2024 BIA Staffing and Equipment Needs Assessment will be submitted by the end of IMR9.</p>
<p>2A: The Department should undertake a systematic analysis to assess the investigative process, beginning to end, to identify and resolve inefficiencies that delay completion of investigations. This analysis (or another concurrent analysis) should assess Accountability Sergeant staffing to ensure that district-level investigations have sufficient staff to meet Consent Decree deadlines.</p>	<p>Please refer to BIA response to 1A</p>
<p>1B: The Department should require approval of requests for extensions by the Chief of BIA or their designee as stipulated by Consent Decree</p>	<p>BIA will develop an email message in the CMS system to inform the Chief of BIA (or designee) of an extension request. If the Chief of BIA (or designee)</p>



<p>paragraph 471 and modify relevant directives as needed. Alternatively, the Department should confirm with the IMT that BIA's current approach fulfills the requirements of paragraph 471.</p>	<p>does not approve of the request, he/she will immediately contact the BIA Investigator's supervisor to determine the next steps. This will allow the investigator to continue to access the case and avoid unnecessary delays in the process.</p>
<p>2B: The Department should require approval of requests for extensions by each district's respective District Commander as required by Consent Decree paragraph 472. Alternatively, the Department should confirm with the IMT that BIA's current approach fulfills requirements of paragraph 471.</p>	<p>BIA will develop an email message in the CMS system to inform the Accountability Sergeant's District Commander, (or XO), of an extension request. If the District Commander, (or XO), does not approve of the request, he/she will immediately contact the BIA Investigator's supervisor to determine the next steps. This will allow the investigator to continue to access the case and avoid unnecessary delays in the process.</p>
<p>4A: The Department should revise Special Order S08-01-03 "Communication Procedures and Timelines" and/or S08-01-08 "Post Investigation Log Number Procedures" section IV. to require the upload of USPS tracking status reports to CMS for ASRs delivered by mail.</p>	<p>BIA will request the revision of #S08-01-08 "Post-Investigation Log Number Procedures", section IV. C., to include:</p> <p>Advocate Section personnel will upon notification by the Labor Relations Division that a CPD member has filed a grievance relating to any discipline imposed as a result of the Reporting Party's complaint, the Department Advocate, BIA, will ensure reporting parties are notified of the grievance in writing within 30 days.</p> <p>Advocate Section personnel will upload tracking status information into CMS once they receive the certified mail receipt confirming delivery if email is not available.</p>
<p>4B: The Department should weigh the advantages and disadvantages of requesting the IMT's agreement to revise the Consent Decree and relevant directives to require delivery and publication of ASRs within 60 days of the date cases are officially closed, after completion of the grievance process, if applicable.</p>	<p>BIA has taken this into consideration and will not be requesting a revision of the Consent Decree and relevant directives at this time.</p>
<p>5: For cases that do not require review by the Chief of BIA or their designee, the Department should work with the IMT to identify a date to be used in lieu of final disciplinary decision date as the start of the 60-day ASR publication window (e.g. investigative findings date, case closed date, etc.).</p>	<p>Please refer to BIA response to 4B.</p>
<p>6: BIA should identify the shortcoming in the automated CCR process and make the necessary corrections.</p>	<p>CCR Enforcement rules are now in production:</p> <ul style="list-style-type: none"> When the Status is being changed to Command Channel Review or OLA Review and the user is with Advocate, present the user with a reminder "When going to the



	<p><Status> Status, CCR Reviewers must be reviewed and assigned immediately.”</p> <ul style="list-style-type: none">• When the Status is being changed to Command Channel Review or OLA Review and the user is NOT with Advocate, send a notification to BIAdvocate@chicagopolice.org “Case <Log No> is now in the <Status> Status and needs CCR Reviewers reviewed and assigned.”• If a Case is in Command Channel Review and there is not a First or Second Level Reviewer give the user an error on Save “Please contact Advocate to assign CCR Reviewers before you can save this case.”
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Yolanda L. Talley
Chief
Bureau of Internal Affairs

YLT/cs