



Audit and Review Section  
Professional Standards and Accountability Bureau

# Custodial Interrogations and Interviews Audit March 2022

(FOB and ISB)

Report # CI&I032022

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## Executive Summary

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The Audit and Review Unit (ARU) of the Professional Standards and Accountability Bureau (PSAB) completed a Custodial Interrogations and Interviews Audit in March 2022 of data from September 2021 to February 2022. Custodial Interrogations and Interviews Audits are conducted to ensure that New Orleans Police Department (NOPD) officers conduct custodial interrogations in accordance with the subjects' rights secured or protected by the Constitution and laws of the United States, including the rights to counsel and against self-incrimination. NOPD agrees to ensure that custodial interrogations are conducted professionally and effectively, in order to elicit accurate and reliable information. This process is regulated by Chapter 42.11 of the New Orleans Police Department's Operations Manual, along with sections of Chapter 1.9.1, 55.4 and 55.5.1.

This audit, conducted from February 28, 2022 to March 23, 2022, was completed using the latest Custodial Interrogations and Interviews Audit Protocol. The audit addresses the following Consent Decree (CD) questions: Log Entries, Video/Audio Documentation; Detective Notes; Miranda Rights; and LEP rights as documented in Consent Decree paragraphs 163, 164, 166, 167 and 168.

Scores of 95% or higher are considered substantial compliance. Supervisors should address any noted deficiencies with specific training through In-service Training classes or Daily Training Bulletins (DTBs). This training should be reinforced by close and effective supervision in addition to Supervisor Feedback Logs entries.

The overall score of the Custodial Interrogations Audit is as follows: **99%**

- Q21: Log Entry Complete: 86% (Non-Compliant)
  - District 3, 6, 7, Sex Crimes, and Child Abuse had incomplete or erroneous log entry information.
  - District 2, 3, 4 and Homicide erroneously logged interviews as interrogations

The overall score of the Custodial Interview Log check is: **92%** (Non-Compliant)

- District 1, 2, and 7 identified log entries as interviews when in fact were interrogations.

More detailed results are embedded in the Scorecard Table and Conclusion sections.

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## Introduction

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The Audit and Review Unit of the Professional Standards and Accountability Bureau conducted a Custodial Interrogations Audit in March of 2022.

### Purpose

Custodial Interrogations Audits are completed to ensure custodial interrogations are conducted effectively and in accordance with the rights secured or protected by the Constitution and laws of the United States. These requirements are regulated by the following policies of the New Orleans Police Department's Operations Manual:

Chapter 42.11 Custodial Interrogations

Chapter 1.9.1 – Miranda Rights

Chapter 55.4 – Limited English Proficiency

Chapter 55.5.1 – Communication with Persons Who are Deaf or Hard of Hearing

In addition, Consent Decree paragraphs 163, 164, 166, 167 and 168 should be understood and referenced as needed.

This list is inclusive of all pertinent areas with regard to the audit.

### Objectives

This audit is designed to ensure that all custodial interrogations conducted by NOPD officers are done so in accordance with the U.S. Constitution, DOJ Consent Decree and NOPD policies. All Custodial Interrogations conducted by NOPD officers must be documented in the Custodial Interrogation log either electronically or in a written log. During the audit, while reviewing the log, auditors need to ensure that it was accurately completed. The audit qualitatively assesses custodial interrogations to ensure compliance and each audit consists of a random sample of all Custodial Interrogations conducted by officers/detectives in the duty location since the prior PSAB audit.

Generally, each auditor is responsible for verifying and documenting that the NOPD conducted a proper custodial interrogation through:

1. Inspection of the Custodial Interrogations log to determine compliance with stated requirements.
2. Documentation must exist in each case file as evidence of compliance with the following:
  - All log entries properly identified as Interrogations or Interviews
  - All custodial interrogations that took place in a police facility were audio/video recorded. The custodial interrogation log requires an entry as to where the recording was made
  - All interrogations that involved suspected homicides or sexual assaults, were audio/video recorded
  - There is a video/audio recording of the statement as listed in the log

- The duty location does have a designated interview room(s) equipped with functioning audio and video recording technology that allows for recording and maintenance of all phases of Interrogations
- The recording does not reflect any threat or use of physical violence on the individual or the individuals' family
- The custodial interrogation recording was recorded in its entirety
- The custodial interrogation recording was not preceded by a "pre-interview"
- The recording equipment was not turned off during any part of the interview
- If the recording was turned off, it was the suspect's decision that he/she did not want the interrogation recorded
- If the recording was turned off and it was the suspect's decision that the interrogation was not to be recorded, the suspect's request was recorded and documented in the case report
- There was not a video/audio equipment failure during the recording of an interrogation
- If there was a video/audio equipment failure during the recording of an interrogation, it is noted in the case file
- If there was a video/audio equipment failure during the recording of an interrogation, it is noted in the EPR
- If there was a video/audio equipment failure during the recording of an interrogation, it is noted in a memo to the appropriate Deputy Chief
- If the interrogation was not able to be video and audio recorded because of equipment failure or malfunction, the detectives recorded the interrogation by means of a digital or cassette recorder, body worn camera, or another recording device
- The case file contains all of the officers' notes taken during interviews and interrogations
- The interview was conducted in the accused person's primary language
- If an interpreter was a police department employee, the case file reflects that the interpreter identified himself/herself as an officer or employee of the Department
- The interpreter is authorized by the Department to interpret
- The interpreter is trained in using interpretation protocols
- The log entry is complete; correct item number, location of interrogation, name of subject being interrogated, name of officer conducting the interrogation.

## **Background**

Custodial Interrogations Audits have been conducted since May of 2016 in various formats. This was the first comprehensive Custodial Interrogations Audit utilizing the enhanced protocol. The resulting audit is a more detailed, and deeper diving review of the most fundamental actions taken by police conducting interrogations and interviews.

## Methodology

Auditors qualitatively assessed each incident using the Custodial Interrogation and Interview form listed below to ensure each interrogation and interview is compliant with legal requirements and NOPD policy. Auditors analyzed reports, field interview Cards, L3 interview room video and/or body-worn cameras, to ensure officers conducted a legal, constitutional interrogation or interview; that officers documented such encounters, and that documentation was complete and accurate. The Custodial Interrogation and Interview Audit form (Appendix A) was used to document the audit criteria.

Auditors read the guidance in the audit forms as required. Changes to audit forms are clearly communicated to auditors by the audit supervisor. Auditors re-read policies when guidance in audit forms recommends they do so or when the policy requirements are not clear enough to the auditor to allow him/her to confidently score an audit criterion.

When audit results require comments, auditors thoroughly explain the evidence they observed that led to their determination of the result for the audit criteria in question. Drawing on their knowledge of NOPD policies, auditors note any policy violations they observe that are not specifically addressed in the Custodial Interrogations and Interviews Audit tools in the “Auditor Comments” section of the form.

All documents and related incidents that are in the sample and are not audited must be deselected. All deselections are recorded in the Deselection Log. A review of the Deselection Log shows there were 15 items deselected for this audit. Of the 15 items deselected, 6 were duplicates of other interrogations, 1 was due to corrupt video (no backup available), 4 were incorrectly logged, and 4 were previously audited but were not back-dated properly.

**NOTE: Deselected Items have no impact on results of the audit as they are not included in the audit score calculations.**

Sample ID	Deselection Reason
G-32058-21	For this item, G-32058-21, the date is 11/30/2021 at 23:26 per the logbook. However, there is no video located under L3 for that date for this video (the only one belongs to item K-36152-21 and that is confirmed, per the video, to be for that item number as he references it and says the person’s name). The only video that is available for this case is in BWC and that item is recorded on 8/18/2021 under the item number, same person, same date of birth. <b>This item was already audited during our previous custodial interrogation audit and therefore</b> , is being deselected. Not sure why the date and time are off and different. There are no other videos under this item number regarding an interview (and 6th district always uploads their interviews to BWC) so I am confident this is just incorrectly dated and the same video that was already audited.
G-32058-21	Audited on 3/16/2022 - CA. This item is deselected due to the date is listed in the log incorrectly and was previously <b>audited in the previous audit</b>
H-11066-21	Audited on 3/16/2022 - CA. This item has been deselected due to an incorrect date listed on the log <b>and was previously audited.</b>

H-18375-21	Wrong <b>Item number was listed on the Log...</b> This Item, I-12948-21. A mother and son were interviewed.
I-02143-21	<b>Item I-02143-21 was duplicated in the logbooks.</b> Both logbook entries had exact same information (interview) listed.
I-02196-21	This item has been deselected due to one of the <b>videos has been corrupted and will not play.</b> NOPD Tech advised that it may be beyond repair. Also, the 7th District did not have any additional items in the sample to use as a replacement.
I-11986-21	This item is located under 2 logbooks - 4th District and Sex Crimes. The subject is being questioned in the 4th district by Sex Crimes detectives. Therefore, the entry belongs under Sex Crimes and will be deselected for the 4th district as it is a <b>duplicate.</b>
I-29002-21	This item belongs under sex crimes and not child abuse. The suspect was interviewed in the Child Abuse room, but the case belongs to sex crimes. <b>At no time was a child involved in this case nor an allegation of child abuse.</b>
K-01012-21	This is an exact duplicate of a <b>prior entry that was audited</b> - the logbook has the exact same information input twice. Therefore, the second entry will be deselected as it has already been audited.
K-19748-21	This is a <b>duplicate of K-25936-21.</b> The suspect is being interrogated by detectives for two items numbers; both item numbers were logged separately but the questioning is during the same interrogation. Therefore, this <b>duplicate item</b> is deselected and will audit the other item number which will cover both. Another item was selected in its place.
K-23404-21	This is a <b>duplicate of both</b> K-35992-21 (2nd district) and K-19748-21 (6th District). Name on the log is also the wrong name, this is the same interview for the same person in all three item numbers.
K-25936-21	This item is deselected since it is a <b>duplicate of</b> the 2nd District item, K-35992-21. The error occurred due to the subject's name being entered incorrectly on the log.
K-34403-21	This item has been deselected due to it is listed on the 7th District log in error and <b>should be listed under the Homicide Division's log.</b>
L-10238-21	This log entry is a <b>duplicate of the same information found under child abuse.</b> The log entry was duplicated under both items. This audit was completed under the child abuse item as it is their interrogation completed by their detectives.
L-14664-21	Item is a Homicide Interview handled by Det. Diesburg however Shooting occurred in the 1st District and was not ever 3rd District roll. The location of the interview was the 3rd District however should have been logged as a Homicide Interview no matter where the Interview was conducted. <b>Located in incorrect Logbook.</b>

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## Initiating and Conducting the Custodial Interrogations and Interviews Audit

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By applying the audit forms as a guide, the auditors qualitatively assessed the Custodial Interrogation and Interview data to determine whether officers/detectives substantively met the requirements of policy.

1. Two weeks prior to the audit, districts/units were notified of the audit to ensure the duty location had prepared for the audit and that all documentation was available for review.
2. Two auditors were assigned to each district/unit to be audited utilizing the double-blind process.
3. The auditors utilized the digital audit form to input the results of the audit.
4. The auditors inspected any necessary related documents provided by the district/unit as evidence of compliance or reviewed online data.
5. When the documentation was unavailable at the time of the audit, the district/unit was given until the end of the audit period to provide the documentation.
6. Once the auditors entered their audit results, compliance scores were determined for the requirements listed above. This final report documents whether the compliance rate for each requirement met the threshold for substantial compliance (95%).



## Reviews – Compliance Scores Table

Audit results data in Excel spreadsheet, raw data based on individual questions on the Custodial Interrogations and Interviews Audit Forms.

### Custodial Interviews and Interrogations Scorecard By District

Review Period: Sep 2021 - Feb 2022

ARU percentages for Consent Decree requirements for Custodial Interrogations Checklist Audit.

Check-List Questions	1	2	3	4	5	6	7	8	SOD	Homicide	Sex Crimes	Child Abuse	Overall Score
1 All custodial interrogations that took place in a police facility were audio/video recorded	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
2 All interrogations that involved suspected homicides or sexual assaults, were audio/video recorded	-	-	-	100%	100%	100%	100%	-	100%	100%	100%	100%	100%
3 There is a video/audio recording of the statement as listed in the log	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
4 The duty location does have a designated interview room(s) equipped with functioning audio and video recording technology that allows for recording and maintenance of all phases of Interrogations	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
5 The recording does not reflect any threat or use of physical violence on the individual or the individuals' family	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
6 The custodial interrogation recording was recorded in its entirety	-	100%	100%	100%	100%	88%	100%	100%	100%	100%	100%	100%	99%
7 The custodial interrogation recording was not preceded by a "pre-interview"	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
8 The recording equipment was not turned off during any part of the interview	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
9 If the recording was turned off, it was the suspect's decision that he/she did not want the interrogation recorded	-	-	-	-	-	-	-	-	-	-	-	-	-
10 If the recording was turned off and it was the suspect's decision that the interrogation was not to be recorded, the suspect's request was recorded and documented in the case report	-	-	-	-	-	-	-	-	-	-	-	-	-
11 There was not a video/audio equipment failure during the recording of an interrogation (Informational Count Only)	0	6	4	10	2	8	4	6	3	17	5	12	77
12 If there was a video/audio equipment failure during the recording of an interrogation, it is noted in the case file	-	-	-	-	-	-	-	-	-	-	-	-	-
13 If there was a video/audio equipment failure during the recording of an interrogation, it is noted in the EPR	-	-	-	-	-	-	-	-	-	-	-	-	-
14 If there was a video/audio equipment failure during the recording of an interrogation, it is noted in a memo to the appropriate Deputy Chief	-	-	-	-	-	-	-	-	-	-	-	-	-
15 If the interrogation was not able to be video and audio recorded because of equipment failure or malfunction, the detectives recorded the interrogation by means of a digital or cassette recorder, body worn camera, or another recording device	-	-	-	-	-	-	-	-	-	-	-	-	-
16A The number of case files where it appears notes were taken during interviews and interrogations (Informational Count Only)	0	1	0	5	1	1	1	3	2	7	5	6	32
16B The case file contains all of the officers' notes taken during this interview/interrogation, if seen in A/V taking notes	-	100%	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
17A The interview was conducted in the accused person's primary language	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
17B Miranda was given in person's primary language	-	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
18 If an interpreter was a police department employee, the case file reflects that the interpreter identified himself/herself as an officer or employee of the Department	-	-	-	-	-	-	-	-	-	-	-	100%	100%
19 The interpreter is authorized by the Department to interpret	-	-	-	-	-	-	-	-	-	-	-	-	100%
20 The interpreter is trained in using interpretation protocols	-	-	-	-	-	-	-	100%	-	-	-	100%	100%
21 The log entry is complete if the following are included in the log: Correct Item Number Location of Interrogation Name of Subject being Interrogated Name of Officer Conducting the Interrogation	-	100%	67%	100%	100%	63%	33%	100%	100%	100%	60%	83%	86%
<b>Total Interrogations Score</b>	NA	100%	95%	100%	100%	96%	93%	100%	100%	100%	96%	98%	99%
<b>Total Interview Score</b>	80%	50%	100%	100%	100%	NA	63%	100%	100%	100%	100%	100%	92%

#### General Comments

ARU audited the sample list case files for the defined period, for completeness and accuracy as required by the Consent Decree.

For an explanation of the procedures and scoring system for this review, see the associated "Protocol" document.

For a list of relevant policies, contact ARU as needed.

For the audit results for each case file, see the accompanying RawData spreadsheets.

Scores below 95% are highlighted in red.

# Custodial Interviews and Interrogations Table

Review Period: Sep 2021 - Feb 2022

ARU percentages for Consent Decree requirements for Custodial Interrogations Checklist Audit.

Check-List Questions		Score	Y	N	U	NA*	Consent Decree	NOPD Policy Chapters
1	All custodial interrogations that took place in a police facility were audio/video recorded	100%	68	0	0	9	164	Ch 42.11 p5-p7
2	All interrogations that involved suspected homicides or sexual assaults, were audio/video recorded	100%	32	0	0	45	164	Ch 42.11 p5-p7
3	There is a video/audio recording of the statement as listed in the log	100%	68	0	0	9	164	Ch 42.11 p5-p7
4	The duty location does have a designated interview room(s) equipped with functioning audio and video recording technology that allows for recording and maintenance of all phases of Interrogations	100%	68	0	0	9	167	Ch 42.11 p8
5	The recording does not reflect any threat or use of physical violence on the individual or the individuals' family	100%	67	0	0	10	163	Ch 42.11 p2, p4
6	The custodial interrogation recording was recorded in its entirety	99%	67	1	0	9	164	Ch 42.11 p6-p7
7	The custodial interrogation recording was not preceded by a "pre-interview"	100%	68	0	0	9	164	Ch 42.11 p5, p9
8	The recording equipment was not turned off during any part of the interview	100%	68	0	0	9	164	Ch 42.11 p10
9	If the recording was turned off, it was the suspect's decision that he/she did not want the interrogation recorded	n/a	0	0	0	77	164	Ch 42.11 p10
10	If the recording was turned off and it was the suspect's decision that the interrogation was not to be recorded, the suspect's request was recorded and documented in the case report	n/a	0	0	0	77	164	Ch 42.11 p10
11	There was not a video/audio equipment failure during the recording of an interrogation (Informational Only)		77	0	0	0	164	Ch 42.11 p28
12	If there was a video/audio equipment failure during the recording of an interrogation, it is noted in the case file	n/a	0	0	0	77	164	Ch 42.11 p29
13	If there was a video/audio equipment failure during the recording of an interrogation, it is noted in the EPR	n/a	0	0	0	77	164	Ch 42.11 p29
14	If there was a video/audio equipment failure during the recording of an interrogation, it is noted in a memo to the appropriate Deputy Chief	n/a	0	0	0	77	164	Ch 42.11 p29
15	If the interrogation was not able to be video and audio recorded because of equipment failure or malfunction, the detectives recorded the interrogation by means of a digital or cassette recorder, body worn camera, or another recording device	n/a	0	0	0	77	164	Ch 42.11 p28
16A	The number of case files where it appears notes were taken during interviews and interrogations (Informational Only)		32	0	0	45	166	Ch 42.11 p21
16B	The case file contains all of the officers' notes taken during this interview/interrogation, if seen in A/V taking notes	100%	32	0	0	45	166	Ch 42.11 p21
17A	The interview was conducted in the accused person's primary language	100%	68	0	0	9	168	Ch 42.11 p21, p24, Ch 55.4
17B	Miranda was given in person's primary language	100%	66	0	0	11	168	Ch 42.11 p4, p26 Ch 1.9.1, Ch 55.4
18	If an interpreter was a police department employee, the case file reflects that the interpreter identified himself/herself as an officer or employee of the Department	100%	1	0	0	76	168	Ch 42.11 p25, Ch 55.4
19	The interpreter is authorized by the Department to interpret	100%	2	0	0	75	168	Ch 42.11 p24, Ch 55.4
20	The interpreter is trained in using interpretation protocols	100%	2	0	0	75	168	Ch 42.11 p24, Ch 55.4
21	The log entry is complete if the following are included in the log: Correct Item Number Location of Interrogation Date and Time Name of Subject being Interrogated Name of Officer Conducting the Interrogation	86%	59	10	0	8		Ch 42.11 p20, p22
	<b>Total</b>	<b>99%</b>	<b>736</b>	<b>11</b>	<b>0</b>	<b>870</b>		
<b>I</b>	<b>Interviews Logged Correctly as Interviews and not Interrogations</b>	<b>92%</b>	<b>56</b>	<b>5</b>	<b>0</b>	<b>1</b>		

General Comments  
 ARU audited the sample list case files for the defined period, for completeness and accuracy as required by the Consent Decree.  
 For an explanation of the procedures and scoring system for this review, see the associated "Protocol" document.  
 For a list of relevant policies, contact ARU as needed.  
 For the audit results for each case file, see the accompanying RawData spreadsheets.  
 Scores below 95% are highlighted in red.

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## Initial Conclusions

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The results of this audit are verified through a Custodial Interrogations and Interviews Review. This process has now concluded, and the districts/units will have an opportunity to review all the audit results and scorecards. If they identify any discrepancies or have any concerns, an Audit Re-Evaluation Request Form can be submitted to PSAB documenting their concerns.

Custodial Interrogations and Interviews - as noted above, requires that officers/detectives conduct these in compliance within all U.S. laws, consent decree agreements and department policies to ensure the trust and safety of individuals in the community, and provide counseling, redirection, and support to officers.

The compliance percentage for requirements in the Custodial Interrogations and Interviews audit are as follows for the reviews of up to 5 samples or 15% whichever is greater, per district/unit:

1. **Overall Custodial Interrogation sample, which consisted of 77 interrogations, is determined to be substantially compliant at 99%.** The following questions are identified as opportunities for improvement:
  - o **Q21: “The log entry is complete” score (86%)** was impacted by two districts non-compliance scores, which impacted the overall score, but does signify a need for modest corrective action.
    - 3<sup>rd</sup> District: I-14945-21 – log missing subject name.
    - 6<sup>th</sup> District: J-17517-21 – Incorrect item number, I-01033-21 - missing subject name, and K-14878-21 - detective conducting interrogation incorrect in log.
    - 7<sup>th</sup> District: A-03917-22 - Incorrect item number, A-10892-22 - detective’s name listed on the log is incorrect.
    - Sex Crimes: G-28277-21 - date, time and location being incorrect on the log, I-14683-21 - log is incorrect as the subject's name is Dwayne Wright, not Dwayne West.
    - and Child Abuse: J-34217-21 - item number in the log is incorrect, C-28658-21 - item number is incorrect on the log.
2. **Overall Custodial Interview Log Check sample, which consisted of 62 randomly selected interviews, is determined to be non-compliant at 92%.**
  - a. District 1, 2, and 7 identified log entries as interviews when in fact were interrogations.

1	J-21507-21
2	I-08114-21
7	H-37029-21
7	K-33406-21
7	J-17302-21

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## Recommendations

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While only one category in this audit was below the substantial compliance threshold of 95%, there are opportunities to improve in the following areas:

The “¶168: The log entry is complete” score was driven by five (5) units non-compliance scores, which impacted the overall score (86%) but does signify a need for modest corrective action. Districts need to ensure they are only logging entries relative to their own unit, not other investigative units as they have their own logbook databases.

1. This report will serve as notification of district/unit performance during this audit.
2. Work with Policy Standards Section to develop DTB's to address the training issues identified in this report.

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## District Responses and PSAB Notes

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### 3<sup>rd</sup> District Statements

H-18375-21. The videos are locked and not able to be viewed. There are three entries in the log. Two for H-18375-21 and one for I-12948-21. Lineups were shown for both items on that day.

**PSAB Response:** The items listed in the Deselection table require no response as we did not audit those items. H-18375-21 was **Not** audited for the reason given. This is considered an NA. No impact.

I-14945-21 (Signal 34S) - log missing subject name.

The District looked into the L Drive and discovered over a year and a half of logs where there is no complainant name, but the age, race, and birthday were present. I'm not sure why this is as I know we did not go that long without putting in names. Not sure if all names were deleted accidentally by someone.

**PSAB Response:** This appears to be a common error FOB wide. For that reason, we conduct these audits to bring awareness to those issues. Since PSAB only audits a small sample of all log entries, we do not know to the extent that the subject name is missing. But even if not in that field, it should have been documented in the comments section. Per the NOPD Policy 42:11 P20, P22 bullet (b), the identity of all present must be documented.

### DOCUMENTING CUSTODIAL INTERROGATIONS

20. All custodial interrogations shall be documented in the Custodial Interrogations Log for the officer's district or unit.

21. Officers shall maintain in the case file his/her notes taken during any custodial interrogations involving that case.

22. The circumstances surrounding the conduct of interrogations and recording of confessions shall be **fully documented** in the related investigative report. This includes but is not necessarily limited to:

(a) Location, date, time of day, and duration of interrogation

(b) **The identities of officers or others present**

(c) Miranda warnings given, suspect responses, and waivers provided, if any; and

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(d) The nature and duration of breaks in questioning, whether for food, drink, use of lavatories, or for other purposes

L-14664-21 (Signal 30) This appears to be a mistake by Homicide, but the 3rd District room was used - Item is a Homicide Interview handled by Det. Michael Diesburg however the Shooting occurred in the 1st District and was not ever 3rd District roll. The location of the interview was the 3rd District however should have been logged as a Homicide Interview no matter where the Interview was conducted. Located incorrectly Logbook. I am not sure if this counted against us or Homicide. It appears they used our Interview Room and upon doing it, labeled the interview in the L Drive for the 3rd District instead of Homicide (my guess is since they used our room, they believed the Drive should have been marked for the 3rd District).

**PSAB Response:** PSAB understands that L-14664-21 is problematic. However, even if the item was logged into the 3rd District logbooks, it should have been assigned to the correct Unit Homicide. It was documented in the logbooks as a District 3 item. PSAB recommends that the 3rd District clean up their logbook entries as needed.

No other actions required as no changes made to report relative to the 3<sup>rd</sup> District comments.

#### **6<sup>th</sup> District Statements**

J-17517-21: The item was listed incorrectly. On 4-5-22 at 2:46pm, the item was corrected to I-17517-22. **Explanation: Human error.** The I and J keys are next to one another and accidental press can't be ruled out.

I-01022-22: The item was missing the subject's name. On 4-5-22 at 2:48pm, the subject's name was added. All other pertinent information was already present except for the full name. **Explanation: Oversight.**

K-14878-22: The item listed the incorrect detective. Matthew Bencik was listed over Roshain Mitchell. This was a matter where Bencik was lead but worked closely with Mitchell and partnered with one another on the investigation. Mitchell performed the interview. **Explanation: Oversight.**

**6<sup>th</sup> District Corrective Actions:** Ultimately, the overall day to day operations of DIU rests with the DIU Commander. Lt. Burns contacted NOPD Tech prior to the writing of this email. He requested access to the L-drive. Lt. Burns' objective was to place himself in a position to better monitor the logs to prevent future unfavorable audit scores. The aim is 100% from here on. An additional layer of review will be necessary going forward to ensure the success of future audits.

**PSAB Response:** No response required as no changes made to report relative to the 6<sup>th</sup> District corrective actions. Note that a follow-up conversation was had with the District Captain, DSA and DIU Lieutenant on April 5<sup>th</sup>, 2022 to confirm this.

Timothy A. Lindsey

**Innovation Manager, Auditing**

**Auditing and Review Unit**

**Professional Standards and Accountability Bureau**

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## Appendix A – Custodial Interrogations and Interviews Audit Forms

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### Custodial Interrogations Audit Forms:

#### Custodial Interrogation Audit

Auditor

Item Number

Unit

Reporting Year

Reporting Month

Interrogation DateTime

  : 

Interrogation Location

Please indicate the Log Entry type from the Log as identified by the district completing the logbook.

Log Entry Type

Is the log book entry type (interrogation or interview) correct as indicated by the district?

Auditor Log Entry Type

Look at L3 video. Determine who the police are speaking with. If the person is suspected of a crime,

and the police are questioning them as a suspect, it is an interrogation. If the person is not suspected of a crime (such as a witness or information/intelligence), it is an interview.

**Stop here. If the log entry is correctly identified as an interview, then skip all the remaining questions. If the log entry is identified as an interrogation, proceed with the below questions.**

1. If the interrogation took place in a police station, was it audio/video recorded? (L3 system)

Interrogation Conducted in Police Facility Was Recorded

2. If the interrogation involved suspected homicide or sexual assault, it must be recorded.

Interrogation Involving Homicide or Sexual Assault Was Recorded

Find items 

3. There is an audio/video recording of the statement as listed in the log.

Recording Exists As Listed in Log

Find items 

4. Did the duty location have a designated room equipped with functioning audio and video recording technology that allowed for the recording and maintenance of all phases of this interrogation? CD 167

Unit has Interrogation Rm with Audio/Video

Find items 

5. This audio/video recording did NOT reflect any threats or use of physical violence against the individual or the individual's family.

No Threats of Violence

Find items 

6. This custodial interrogation was recorded in its entirety. Video is considered complete if the following conditions are met: 1) Suspect must be seen walking into the empty room 2) Subject must be given the Miranda warning and seen answering questions (or denying to) 3) Subject must be seen leaving the room and not returning.

Entire Interrogation A/V Recorded

Find items 

7. This custodial interrogation was NOT preceded by a "pre-interview"

No Pre-Interview Before Interrogation

Find items 

8. The recording equipment was NOT turned off during any part of this interrogation.

A/V Recording Not Turned Off During Interview

Find items 

9. If the recording was turned off, it was the suspects decision that they did not want the interrogation recorded.

If Recording Halted, It was Suspect's Decision

Find items 

10. If the recording was turned off, and it was the suspects decision to do so, then the request was recorded and documented in a case report.

If Recording Halted, Suspect's Decision Recorded and Documented

Find items 

11. There was not audio/video equipment failure during this interrogation.

No A/V Equipment Failure During Recording

Find items 

12. If there was audio/video recording equipment failure, it was documented in the case file.

If A/V Equipment Failure, Documented in Case File

Find items 



13. If there was audio/video recording equipment failure, it was documented in an EPR.

If A/V Equipment Failure, Documented in EPR

 

14. If there was audio/video recording equipment failure, it was documented in a memo to the appropriate Deputy Chief.

If A/V Equipment Failure, Memo sent to Deputy Chief

 

15. If the interrogation was not able to be audio/video recorded due to equipment failure or malfunction, then a Body Worn Camera, digital or cassette recorder, or another recording device was used to complete this interrogation

If A/V Equip Failure, BWC, Digital Recorder, Other Device Used

 

16A. Audio/video recording appears to show the detective took case notes.

Detective Took Notes

 

16B. If the detective appears to take case notes (#16A is "Yes") then the notes are located in the case file.

Notes In Case File

 

17A. The interrogation was conducted in the primary language of the accused.

Interview Conducted in Primary Language of Accused

 

17B. The Miranda Warning was given the person's primary language.

Miranda in Primary Language

 

18. If an interpreter was used, and it was a police department employee, the case file and/or audio/video recording indicates the interpreter identified himself/herself as a department employee or officer of this department during the interrogation.

Interpreter Identified Himself As Police Employee As Required

 

19. The interpreter is authorized by the department to interpret, if used.

Interpreter is Authorized via NOPDAI, if Used

 

20. The interpreter is trained in using interpretation protocols, if used.

Interpreter Is Qualified in Interrogation Techniques, If Used

 

21. Is the log entry complete? The log entry is complete if it contains the following:

- 1) Correct Item Number
- 2) Location of Interrogation
- 3) Name of Subject being Interrogated
- 4) Name of Officer conducting Interrogation

Log Entry Complete

 

Auditor Comments Custodial

Auditor Comments Custodial

Reviewer Comments Custodial

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## **Appendix B – Report Distribution**

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Superintendent

Chief Deputy Superintendent– Field Operations Bureau

Deputy Superintendent – Professional Standards and Accountability Bureau

Deputy Superintendent – Investigative Services Bureau

City Attorney – City Attorney’s Office