



Audit and Review Section
Professional Standards and Accountability Bureau

Custodial Interrogations and Interviews Audit March 2023

(FOB and ISB)

Report # CI&I032023

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Audit Team

This audit was managed and conducted by the Audit and Review Unit

Executive Summary

The Audit and Review Unit (ARU) of the Professional Standards and Accountability Bureau (PSAB) completed a Custodial Interrogations and Interviews Audit in March 2023 of data from September 2022 to February 2023. 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 March 8th, 2023, to March 28th, 2023, 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%**

- No questions Non-compliant

The overall score of the Custodial Interview Log check is: **93%** (Non-Compliant); the previous audit was scored 92%.

- District 4 and 8 identified log entries as interviews; ARU determined that those were interrogations.

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

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Introduction

The Audit and Review Unit of the Professional Standards and Accountability Bureau conducted a Custodial Interrogations Audit in March of 2023.

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 4 items deselected for this audit. Of the 12 items deselected, 9 were due to non-NOPD detectives conducted the interrogations, 1 was a duplicate, 1 where no interaction occurred and 1 mis-assigned to wrong unit.

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

Deselection Reason
Duplicate item number
This item has been de-selected due to not being an interrogation conducted by the Homicide division. This interrogation involved a child abuse incident, and the subject was interviewed by a child abuse detective.
This item number was deselected on 3/14/23 due to the interrogation not being conducted by NOPD officers.
This item was deselected due to the interrogation not being conducted by NOPD detectives.
This item was deselected due to the interrogation not being conducted by any NOPD personnel. The detectives for this item were JPSO

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<p>This item was deselected due to the interrogation not being performed by NOPD officers.</p>
<p>This item was deselected due to no interview nor interrogation occurring.</p>

Initiating and Conducting the Custodial Interrogations and Interviews Audit

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. Auditors were assigned to each district/unit to be audited utilizing a single review 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 Table

Review Period: Sep 2022 - Feb 2023

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%	92	0	0	2	164	Ch 42.11 p5-p7
2 All interrogations that involved suspected homicides or sexual assaults, were audio/video recorded	100%	34	0	0	60	164	Ch 42.11 p5-p7
3 There is a video/audio recording of the statement as listed in the log	100%	92	0	0	2	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%	93	0	0	1	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%	90	0	0	4	163	Ch 42.11 p2, p4
6 The custodial interrogation recording was recorded in its entirety	100%	92	0	0	2	164	Ch 42.11 p6-p7
7 The custodial interrogation recording was not preceded by a "pre-interview"	98%	88	2	0	4	164	Ch 42.11 p5, p9
8 The recording equipment was not turned off during any part of the interview	100%	91	0	0	3	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	100%	1	0	0	93	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	100%	1	0	0	93	164	Ch 42.11 p10
11 There was not a video/audio equipment failure during the recording of an interrogation (Informational Only)		91	0	0	3	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	94	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	94	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	94	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	94	164	Ch 42.11 p28
16A The number of case files where it appears notes were taken during interviews and interrogations (Informational Only)		35	3	0	56	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	97%	34	1	0	59	166	Ch 42.11 p21
17A The interview was conducted in the accused person's primary language	100%	90	0	0	4	168	Ch 42.11 p21, p24, Ch 55.4
17B Miranda was given in person's primary language	98%	89	2	0	3	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%	3	0	0	91	168	Ch 42.11 p25, Ch 55.4
19 The interpreter is authorized by the Department to interpret	100%	2	0	0	92	168	Ch 42.11 p24, Ch 55.4
20 The interpreter is trained in using interpretation protocols	100%	2	0	0	92	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	99%	90	1	0	3		Ch 42.11 p20, p22
Total	99%	984	6	0	984		
I Interviews Logged Correctly as Interviews and not Interrogations	93%	51	4	0	0		

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 Scorecard By District

Review Period: Sep 2022 - Feb 2023

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%	100%
2 All interrogations that involved suspected homicides or sexual assaults, were audio/video recorded	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%	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%	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%	100%
6 The custodial interrogation recording was recorded in its entirety	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
7 The custodial interrogation recording was not preceded by a "pre-interview"	100%	100%	100%	100%	100%	100%	83%	100%	100%	94%	100%	100%	98%
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%	100%
9 If the recording was turned off, it was the suspect's decision that he/she did not want the interrogation recorded	-	-	-	-	-	-	-	-	-	-	-	100%	100%
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	-	-	-	-	-	-	-	-	-	-	-	100%	100%
11 There was not a video/audio equipment failure during the recording of an interrogation (Informational Count Only)	5	6	3	7	7	7	6	8	7	17	5	13	91
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)	3	0	1	0	2	0	4	3	2	5	5	10	35
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%	67%	100%	100%	100%	100%	97%
17A The interview was conducted in the accused person's primary language	100%	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%	83%	100%	100%	94%	100%	100%	98%
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%	100%
19 The interpreter is authorized by the Department to interpret	-	-	-	-	-	-	-	-	-	-	-	-	100%
20 The interpreter is trained in using interpretation protocols	-	-	-	-	-	-	-	-	-	-	-	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%	100%	100%	100%	100%	100%	83%	100%	100%	100%	100%	100%	99%
Total Interrogations Score	100%	100%	100%	100%	100%	100%	96%	99%	100%	99%	100%	100%	99%
1 Percentage of Interviews Logged Correctly as Interviews	100%	100%	100%	40%	100%	100%	100%	80%	100%	100%	100%	100%	93%

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.

Conclusions

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 94 interrogations, is determined to be substantially compliant at 99%.** The following questions are identified as opportunities for improvement:

Overall Custodial Interview Log Check sample, which consisted of 50 randomly selected interviews, is determined to be non-compliant at 93%.

- a. Two Districts had log entries listed as interviews. Auditors determined the items below to be interrogations instead.

Recommendations

While no categories in this audit were below the substantial compliance threshold of 95%, there are opportunities to improve in the following areas:

The “¶164: “The custodial interrogation where pre-interview appears to have occurred” score was driven by two (2) units non-compliance scores, which impacted the **Q7** score (98%) and does signify a need for modest corrective action. District detectives need to be mindful of asking questions without mirandizing first.

The “¶168: The custodial interrogation where Miranda rights not given score was driven by two (2) units non-compliance scores, which impacted the **Q17B** score (98%) and does signify a need for modest corrective action. District detectives need to be mindful of mirandizing protocols.

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.

District Re-evaluation Requests and PSAB Responses

Districts did not request any re-evaluations nor provide any additional comments to the results in question.

Auditing and Review Unit
Professional Standards and Accountability Bureau

Appendix A – Custodial Interrogations and Interviews Audit Forms

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

 

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

Recording Exists As Listed in Log

 

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

 

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

 

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

 

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

No Pre-Interview Before Interrogation

 

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

A/V Recording Not Turned Off During Interview

 

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

 

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

 

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

No A/V Equipment Failure During Recording

 

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

 

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

If AV 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 AV 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 AV 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

Superintendent

Chief Deputy Superintendent– Field Operations Bureau

Deputy Superintendent – Professional Standards and Accountability Bureau

Deputy Superintendent – Investigative Services Bureau

Director – NOPD Education & Training Services

City Attorney – City Attorney’s Office