

LOS ANGELES POLICE COMMISSION

***REVIEW OF DEPARTMENT'S
QUARTERLY DISCIPLINE REPORT***

4TH QUARTER, 2006



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

April 30, 2007

I. Introduction

The Consent Decree requires that the Department prepare a quarterly report regarding discipline imposed, including Categorical Uses of Force (CUOFs) found to be out of policy, within 45 days after the end of each quarter. The Department has completed its report for the Fourth Quarter of 2006. The Police Commission (Commission) received its copy of the Department's Quarterly Discipline Report (Report) on February 16, 2007. As required under Paragraph 89, the Office of the Inspector General (OIG) has reviewed that Report and submits its own Report to the Commission.

During this Quarter, the OIG again interpreted some of the statistical data contained in the various tables within the Department's Report. Section II below contains the OIG's analysis of some of the information found within the tables contained in the Department's Report and expands upon the information contained therein.

In Section III, we discuss our review of cases closed during the Fourth Quarter that contained at least one allegation of Racial Profiling. We previously reviewed racial profiling cases in our Discipline Report for the Second Quarter of 2002, and we decided to revisit the topic in response to a request by the Commission. Our current review revealed that, overall the Department has made progress in how racial profiling cases are investigated. Nevertheless, we did note the investigative concerns identified below. Our concerns included investigators not asking probing follow-up questions or failing to establish a reasonable legal justification for each law enforcement action taken.

Section IV outlines what we understand to be the Department's new protocols for investigating racial profiling complaints.

Finally, Section V contains our review of the seven CUOFs deemed Out of Policy by the Commission, which were closed during the Fourth Quarter.

II. Analysis of Statistical Information Within the Department's Report

As a result of our review of the Department's Report, we found additional information to aid the Commission in its review and evaluation of the discipline imposed during this Quarter. It is important to note that this was the first QDR which was generated using the new Complaint Management System (CMS). We noted that the tables in this report contained slightly different information as in previous reports, including in the Executive Summary. OIG staff met with the Commanding Officer (CO) of the Training Evaluation and Management Systems (TEAMS) II Development Bureau and members of her staff to discuss the new format of the Department's report as well as suggestions the OIG had regarding additional information that could be provided in future reports. We believe that as a result of the meeting, the OIG's recommended changes will be implemented in the future.

Executive Summary

Using the information contained in the Executive Summary, we determined that the percentage of Sustained allegations was 15.5% (total of Sustained allegations/total allegations = 440/2846 =

15.5%). Also using the information in the Executive Summary, we determined that the percentage of Sustained allegations for each of the "Top Allegation" classifications was as follows, in descending order of sustained rate:

Allegation	Sustained Rate	No. of Sustained Allegations/ Total Number of Allegations
Preventable Traffic Collision	95.5%	64/67
Failure to Qualify	83.3%	45/54
False Statements	25.9%	15/58
Neglect of Duty	17.8%	116/653
Unbecoming Conduct	13.7%	81/591
Unlawful Search	10.7%	8/75
False Imprisonment	9.0%	14/155
Unauthorized Tactics	4.5%	4/88
Discourtesy	2.8%	14/509
Unauthorized Force	0.4%	1/246

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Tables C and E – Allegation Summary / Bureau-Allegation Summary (Sustained Only)

We created an additional table, depicted below, which utilizes data from Tables C, E, and I.

Classification	Sustained Allegations/ Total Allegations	Sustained Rate	Percentage of Total Allegations	Number of Accused Employees	Number of Employees w/ Sustained Allegations ¹
Off-Duty Alt.	1/1	100%	<1%	1	1
PTC	64/67	95.5%	2.4%	68	65
FTA	14/15	93.3%	0.5%	15	14
Dishonesty	19/21	90.5%	0.7%	7	6
Shooting Viol.	8/9	88.9%	0.3%	6	6
FTQ	45/54	83.3%	1.9%	56	47
Insubordination	12/16	75%	0.6%	7	5
Alcohol	5/7	71.4%	0.2%	8	6
Gender Bias	9/25	36%	0.9%	5	1
Dom. Violence	6/18	33.3%	0.6%	9	3
False Statements	15/58	25.9%	2.0%	53	12
Misleading Stmts.	2/9	22.2%	0.3%	9	2
Neglect of Duty	116/653	17.8%	22.9%	443	87
Unbec. Conduct	81/591	13.7%	20.8%	304	40
Ethnic Remark	2/17	11.8%	0.6%	9	2
Unlawful Search	8/75	10.7%	2.6%	52	2
Narcotics	1/11	9.1%	0.4%	9	1
False Impris.	14/155	9.0%	5.4%	124	2
Sexual Miscond.	1/15	6.7%	0.5%	6	1
Improper Remark	2/34	5.9%	1.2%	33	2
Unauth. Tactics	4/88	4.5%	3.1%	60	4
Theft	1/22	4.5%	0.8%	13	1
Discourtesy	14/509	2.8%	17.9%	339	13
Other Pol'y/Rule	1/52	1.9%	1.8%	29	1
Unauth. Force	1/246	0.4%	8.6%	152	1
Racial Profiling	0/31	0%	1.1%	21	0
Discrimination	0/22	0%	0.8%	17	0
Retaliation	0/21	0%	0.7%	20	0
Neg. Discharge	0/0	0%	0%	0	0

We were initially concerned that there were 19 Sustained allegations of Dishonesty included in this report, representing a 90.5% sustained rate. However, further review revealed that 15 of these 19 allegations occurred nearly ten years ago and involved a civilian Police Commission employee. The underlying complaint, CF No. 97-1198, is almost ten years old. The accused was discharged on a different, unrelated complaint, CF No. 98-3333. Per CMS, CF No. 97-1198 was presented to a former Chief of Police (COP) in September 1998 and officially closed in June 2001. However, it was re-opened in CMS for administrative purposes. At that time, the close-out date was inadvertently changed to December 12, 2006. Accordingly, it was included in the Department's Fourth Quarter Report.

¹ Data in the "Number of Employees with Sustained Allegations" column were taken from Table I in the Department's Report. It should be noted that "(e) employees are separately counted for each complaint and for each allegation type; thus a single employee may be counted repeatedly." As a result, the numbers in this column do not account for the exact number of employees against whom the allegations were sustained.

Table F – Allegation Summary by Employee Rank – Listed by Allegation Type

Using the information in Table F (and elsewhere), the OIG obtained Sustained allegation rates, broken-out by rank, calculated both by total allegations, and by total allegations excluding Preventable Traffic Collisions (PTCs), Failures to Appear (FTAs), and Failures to Qualify (FTQs). Our results are depicted in the below table.

	Sustained Allegations/ Allegations	Overall Sustained Rate	Total Sustained Allegations/ Total Allegations (Minus PTCs, FTAs, & FTQs)	Overall Sustained Rate (Minus PTCs, FTAs, & FTQs)
Allegation Total	440/2846	15.5	317/2710	11.7
Staff Officer	2/13	15.4	1/12	8.3
Captain	0/16	0	0/16	0
Lieutenant	17/67	25.4	14/64	21.9
Sergeant	27/215	12.6	19/202	9.4
Detective	49/164	29.9	34/147	23.1
Police Officer III	107/511	20.9	76/476	16
Police Officer II	157/1180	13.3	107/1119	9.6
Police Officer I	11/76	14.5	8/72	11.1
Reserve Officer	4/8	50.0	3/7	42.9
Detention Officer	4/18	22.2	4/18	22.2
Civilian Management	0/2	0	0/2	0
Civilian Personnel	49/101	48.5	48/100	48
Unknown/Invalid	11/475	2.3	11/475	2.3

Whereas 15.5% of all misconduct allegations were Sustained during this quarter, 11.7% of all allegations were Sustained when PTCs, FTQs, and FTAs were removed.

III. Review of Cases

A. Methodology

During the Fourth Quarter of 2006, 24 complaints with at least one allegation of racial profiling against Department employees were closed. Twenty-three of the cases were reviewed. One case was the subject of an Ethics Enforcement Section sting to evaluate whether a complaint would be taken. There was no subsequent investigation, so this case was, therefore, de-selected.

In reviewing these 23 cases, a matrix was utilized by the first and second level reviewers. This matrix contained 35 questions designed to evaluate the quality, completeness, and findings of the completed investigation, including whether the discipline imposed was justified and appropriate in light of the surrounding circumstances, the employee's disciplinary history, and the standards enunciated in the Department's "Management Guide to Discipline" (July 2004) for sworn

employees and the Civilian Guide to Discipline Standards (August 2005) (Guidelines). In addition, a Crib Sheet was also used to assist in answering the questions on the matrix.

OIG staff also reviewed tape-recorded interviews in three cases. In reviewing the taped interviews, OIG staff utilized a matrix containing 17 questions designed to evaluate whether: (1) the interviews were properly paraphrased to include all relevant testimony; (2) all allegations raised by the complainant were properly formed; (3) any additional allegations raised during the interviews were addressed in the completed investigation; (4) the interviews themselves were conducted properly (e.g., whether the interviewer used inappropriate or leading questions, or adopted a hostile or inappropriate tone with the witness); and (5) logical follow-up questions were asked by the interviewer. No secondary level review was conducted for the tape reviews.

B. Analysis of Racial Profiling Complaints

Of the 23 cases reviewed, we identified investigative concerns with the four cases² discussed below. With respect to these cases, we noticed the following:

- The legal justification for stops, searches, and other law enforcement-related actions was not always sufficiently articulated by the accused or adequately fleshed out by the I/O.
- Additional allegations, based on information provided by the complainants, were not consistently framed, and paraphrased witness statements were not always accurate as compared to the taped interviews.
- Improper interview techniques; and
- Failure to resolve inconsistencies or conflicting information.

CF No. 06-1878

This complaint involved an officer who conducted a traffic stop. The driver (complainant-nephew), a young Indian man who tutored for the Los Angeles Unified School District's Basic Educational Services Team (BEST), was stopped because he was double-parked, in violation of the California Vehicle Code. As a BEST tutor, the complainant-nephew was responsible for responding to students' residences to provide tutoring services. The complainant-nephew double-parked his vehicle because he did not remember the address of the student he was supposed to tutor. He exited his car to verify the address, knocked at the door, and did not receive an answer. Upon getting back in his vehicle and driving away, the complainant-nephew noticed a police vehicle behind him.

The complainant-nephew stopped and exited his vehicle to ask the officer what was wrong. The officer asked the complainant-nephew why he had double-parked. The complainant-nephew indicated he did not know double-parking was a Vehicle Code violation. At this point, the officer seemed to develop a suspicion that the complainant-nephew possessed narcotics, given that the residence he tried to enter was a suspected narcotics location. The officer asked the complainant-nephew if he had any proof that he worked for LAUSD. The complainant-nephew displayed his BEST identification. The officer then asked the complainant-nephew for his driver's license; the complainant-nephew began to reach for it, and the officer told him to keep

² On April 24, 2007, OIG staff met with staff from IAG regarding concerns the OIG had identified in several cases. The four cases described below represent those cases which the OIG and IAG agreed merited further discussion.

his hands up, according to the complainant-nephew. The officer asked the complainant-nephew if he would mind if he/she checked for narcotics on his person. The complainant-nephew gave consent to search both his person and his vehicle.

After the accused searched the complainant-nephew's person (and found neither any contraband nor any narcotics), the accused handcuffed the complainant-nephew and placed him in the patrol car while he/she searched the vehicle. The accused again asked the complainant-nephew if he was really a tutor. The complainant-nephew was warned for the double-parking violation, and no citation was issued. The accused claimed that the complainant-nephew was "receptive" to the stop and that he was "cordial and cooperative" throughout the stop. The complainant-nephew later informed his uncle (complainant-uncle) about the stop. The complainant-uncle notified the Department and alleged that his nephew had been stopped due to his race and that the detention was too long.

An I/O Note states that the complainant-uncle's "sole purpose" for contacting LAPD was to ask for clarification of the reason why his nephew was detained for such a long time; accordingly, his interview was not paraphrased:

[The complainant-uncle] did not intend to file a formal complaint. [The complainant-uncle] was not at the scene at the time of the stop nor did he witness the allegations. [The complainant-uncle] had no additional information to assist with this investigation. Therefore, his statement was not paraphrased.

The Department framed one allegation against the accused officer for stopping the complainant-nephew based on his ethnicity and another allegation for failing to release the complainant-nephew in a timely manner when the traffic stop was completed. Both allegations were "Unfounded" based on the below rationale:

The complainant in this matter is a third party who was not present during this traffic stop. The investigation revealed that [the accused] made this traffic stop based on a violation of the California Vehicle Code. [The complainant-uncle] alleged that [the accused] detained [the complainant-nephew] for an unreasonable period of time. The incident printout and [the complainant-nephew's] own statements during his interview disprove this allegation. In addition, [the complainant-nephew] granted consent for [the accused] to search his vehicle and once finished with this lawful search, [the complainant-nephew] was issued a verbal warning for the traffic violation and allowed to leave. There is no evidence that [the accused] conducted this traffic stop based on the race of [the complainant-nephew].

a. Framing Allegations

We believe separate allegations regarding improper handcuffing and detention in the patrol vehicle should have been framed. Only the issue of the duration of the detention was framed and adjudicated, not the detention or handcuffing themselves. In the complainant-uncle's telephone call that resulted in the initiation of the complaint, he expressed concern that his nephew was "detained, handcuffed and placed in the back of a police car for an unnecessarily long period of

time (15 minutes).” On his interview tape, he specifically referred to the handcuffing of the complainant-nephew, stating that the “handcuffing was traumatic for the family.”

b. Interviewing Witnesses

The accused was interviewed prior to the complainants.³ However, a follow-up interview of the accused regarding issues raised by the complainants during their interviews was not conducted. Therefore, several questions remained, such as why the accused felt that he/she needed to ask the complainant-nephew several times if he was really there in a tutorial capacity, and whether the accused became suspicious because, as the accused allegedly informed the complainant, the complainant did not initially stop his vehicle after being followed by the accused.

c. Follow-up/Paraphrasing Concerns

Our most serious concern regarding the I/O's interview was the I/O's failure to probe the accused as to why he/she handcuffed the complainant-nephew and placed him in the back of the police car. To us, this was the foundation of the complainants' complaint.

The I/O also failed to probe what we believe to be an inconsistency with respect to the accused officer's statements about his/her observation of the complainant-nephew. While the accused stated that he/she did not observe the “identity” (or race) of the occupant of the vehicle prior to making the stop, it was clear that he/she observed the complainant-nephew for a certain period of time, when the complainant-nephew was both inside and outside his vehicle. (The accused officer's paraphrased statement indicated that upon circling the block several times, he/she had ample opportunity to view the individual in the vehicle.) In addition, no reference was made to anything that would have obstructed the accused's view of the complainant-nephew's race, such as tinted windows or darkness outside.⁴

It is clear that the accused was suspicious of the complainant-nephew, but why the suspicion continued to the point of justifying placing the complainant-nephew in handcuffs in the back of a police vehicle was not fleshed out by the investigation. The accused reasoned that the complainant-nephew was parked in front of a residence suspected of narcotics activity. However, the accused also stated in his paraphrase that no one approached the car while the complainant-nephew was double-parked, and the accused did not stop the complainant-nephew for double-parking until he drove away from the location. The accused also said that he/she drove around the block a few times, which should have given him/her the chance to observe the race of the complainant-nephew. Nothing in the paraphrased statement indicates that the accused was asked questions regarding these issues.

Furthermore, there were inconsistencies regarding the description of how the accused treated the complainant-nephew. The complainant-nephew relayed in his interview that when the accused asked for his license, the accused immediately told him to keep his hands up. He also stated that

³ A review of the I/O's chronological record revealed that the I/O made several initial attempts to contact the complainants. A decision was made to interview the accused first after these repeated attempts to contact the complainants failed.

⁴ This incident occurred at approximately 1:15 p.m.

the accused asked him repeatedly if he was actually at the location in a tutorial capacity, even after the complainant-nephew produced his identification, and if he possessed drugs.⁵ The accused's paraphrased statement does not mention these details, and the I/O did not otherwise attempt to resolve them when he interviewed the accused.

Also omitted from the paraphrase is the issue that the accused officer stated in his tape-recorded interview that he/she did not remember whether he/she searched the trunk of the vehicle. (The complainant-nephew alleged that the accused did indeed conduct a search of the trunk.)

d. Legal Issues

We identified several legal concerns with this investigation. First, legal questions raised by the detention and handcuffing of the complainant were not adjudicated, most likely due to the fact that no allegations were framed regarding these issues. Indeed, we do not believe the investigation established a sufficient legal basis for detaining the complainant-nephew in the back of the police vehicle. The accused stated that the complainant-nephew consented to a search of his person and vehicle. However, we believe the accused did not articulate a sufficient legal basis for handcuffing and placing the complainant-nephew in the back of the police car. We believe that the law is clear that the complainant-nephew's consent to search his person and vehicle alone does not also justify his being handcuffed and detained in the police vehicle.

On the surface, it would appear that handcuffing and placing the complainant-nephew in the patrol vehicle does not seem to be minimally intrusive, under a totality-of-the-circumstances analysis. The complainant-nephew was cooperative. Therefore, it would appear that the officer's only justification would have been that it was a "high crime area"/suspected narcotics location and that the complainant-nephew got back into his car after knocking on the door and receiving no answer. We do not believe this would have been sufficient reason to handcuff the complainant-nephew and place him in the back of the vehicle.

We also noticed that the Mobile Digital Terminal print-out of the license plate and driver's license check was not included in the investigation. Providing this document, though not necessarily dispositive, may have helped to establish the sequence of events.⁶ For example, the printout could have established whether a run of the complainant's plate and license – which both came up clear – was conducted prior to the search, handcuffing, and detention of the complainant. If the check had been completed prior to the detention, assuming that the run would have come up "clear," this may have had some bearing on whether there would have been less justification for the subsequent detention and handcuffing of the complainant-nephew.

⁵ The Complainant-nephew described a scenario whereby the officer did not appear to believe his repeated statements that he was a tutor, even though there was no evidence to the contrary. Complainant-nephew complied willingly with all requests made by the officer, yet the officer continued to aggressively question his claim of being a tutor, even after seeing his identification and verifying his driver's license.

⁶ We do not take issue with the fact that the stop and detention lasted approximately 16 minutes. Our focus centers on when, and how long, during those 16 minutes the complainant was detained in the back of the vehicle. We believe the sequence of the events could have shed some light on the amount of articulable suspicion the accused had with respect to the different actions he/she took.

CF No. 04-1723/04-1814

The complainants in this investigation were African-American twin brothers. They were pulled over by the two accused officers for having an inoperable rear light. Additional officers in a second vehicle were in the vicinity and briefly stopped at the scene. The brothers believed they were stopped solely because of their race. One complainant also made allegations involving several Fourth Amendment violations – that he was stopped without cause, he and his brother were searched immediately upon being pulled out of the vehicle, his vehicle was unlawfully searched, and his brother was unlawfully arrested and “strip searched” in public. Although the chronology is not clear and quite confusing, the officers completed a wants and warrants check for both brothers at some point during the detention. The investigation revealed that the complainant was driving with a suspended license, and the complainant's brother had over \$30,000 in outstanding misdemeanor warrants.

The complainant sent an e-mail documenting the details of the incident to the Department. It appears that the e-mail was eventually received and resulted in the initiation of the complaint.

A short time after sending the e-mail, the complainant also contacted the OIG. He informed the OIG about the incident and indicated that he had been subjected to the same multiple Fourth Amendment violations articulated in his e-mail. The OIG also initiated a complaint based on the information provided.

Accordingly, two parallel Department investigations commenced with respect to the same incident, one resulting from the Department's contact with the complainant and another resulting from the OIG's contact.⁷ Though the chronology of events is very confusing, it appears the complainant and his brother were interviewed about the incident as part of a criminal investigation in CF No. 04-1814.

The officers were not interviewed until the criminal component of CF No. 04-1814 had been completed. The officers were, however, interviewed as part of a separate administrative investigation, CF No. 04-1723, nearly seven months later.⁸ The officers were asked questions that touched upon the allegations set forth by the complainant. However, much of the detail regarding the incident that was expressed in the e-mail and conveyed by the complainant and his brother in their interviews was not inquired about or followed-up on during the officers' administrative interviews.

The Department ultimately “Unfounded” or “Exonerated” all eight allegations. We do not object to how the racial profiling allegations were adjudicated (“Unfounded”).

⁷ It appears from our review that both investigations were generated utilizing the complainant's e-mail to the Area captain as the basis.

⁸ The two complaint files were not consolidated until the investigations were nearly complete.

a. Adjudication/Legal Issues

1. Fourth Amendment-Related Allegations

All the allegations other than the racial profiling and “strip search” allegations were “Exonerated.” With respect to these more general Fourth Amendment-related allegations, the adjudicator relied on details revealed by the investigation that the complainant and his brother were uncooperative and refused to comply with the officers’ direction to exit the vehicle. However, the adjudicator also admitted that more detailed questioning should have been done:

[T]he officers were not specifically questioned on [the] allegation [regarding whether one of the officers unnecessarily grabbed the complainant’s brother’s right bicep and removed him from a vehicle] during the administrative investigation and were not compelled to make a statement during the criminal investigation. Due to the pending statute date, the officers were not re-interviewed to clarify this issue.

Moreover, we believe the adjudicator did not articulate the best available legal basis to justify exonerating the officers with respect to the unlawful search allegations. The adjudicator maintained that searches of vehicles during “traffic stops” for weapons and contraband is legal, per case and appellate court law. However, this statement is very general, and not entirely accurate. There must be articulable suspicion to escalate a stop or detention to a search or pat-down/frisk. A better justification for the search of the vehicle here would have been that a vehicle search is a permissible incident to impound, and the impound here was reasonable based on the Complainant’s suspended license and the brother’s outstanding warrants. We believe this stronger legal basis should have been articulated in the LOT.

2. “Strip search” Allegation

Based on the “Unfounded” and “Exonerated” adjudications of the other allegations, the adjudicator “Unfounded” the allegations that the accused officers inappropriately searched the complainant’s brother’s groin area:

[The complainant’s brother] stated [Accused No. 1] stood by while [Accused No. 2] put on a rubber glove, unbuttoned [the brother’s] belt and pants, and pulled them down to his thighs, exposing his genitals. [The brother] stated [Accused No. 2] then searched his groin area. [The complainant] contradicts his brother’s statement in that [the brother] told him that [Accused No. 1] loosened his belt and went through his underwear. [The brother] also stated he was held in the back of the police car for two and one-half hours, a fact contradicted by both [the complainant], the officers’ DFAR, and the incident history.

The adjudicator again pointed out that there was not time to ask the officers specifically about this allegation due to the impending statute deadline.⁹

⁹ It is not clear why the accused officers were not asked about all of the information provided by the complainant in the e-mail. The e-mail included an extensive description of the “strip search;” intricate details about the reason for the stop and the various searches of the complainant, his brother, and the vehicle; as well as information about the sequence of events.

We were concerned that the adjudicator made several references to the fact that under ideal circumstances, the accused officers would have been re-interviewed about specific details regarding the "strip search" which had been omitted during their interviews, but that no time was left on the statute.¹⁰

Based on the totality of the circumstances and other well-documented factors throughout the investigation infringing on the complainants' credibility, we do not think the adjudicator's decision to exercise his discretion by "Unfounding" the "strip search" allegation was unreasonable. The adjudicator relied on the fact that the complainant, who was not a witness to the alleged "strip search," relayed that a different officer had conducted the search,¹¹ described a different method by which the search was conducted, and relayed that the search lasted a significantly longer time, than the account of the incident relayed by his brother. However, we believe that given the serious nature of the "strip search" allegation, it should have been probed more thoroughly, beyond the officers' mere denial that they strip-searched the complainant.

CF No. 06-1348

In this investigation, the complainant, a Black janitor, was driving home from work when he was stopped for allegedly crossing over the double yellow dividing line on the road. The location of the stop was near the border between the City of Los Angeles and the City of San Fernando. The officers requested that the complainant exit his vehicle. The complainant believed he was pulled over due to his race. The complainant alleged that he was detained and searched without cause and that he was racially profiled.

The complainant also stated in the attachment to his complaint form that "[o]n five separate occasions, he[']d been pulled over in front of his work . . . and been harassed and accused of not really working [at his place of business]. He's constantly being pulled over in his vehicle and believes it's due to him being black."

Based on the information about the stop provided by the complainant, the Department was able to discern from a search of the pertinent location and the date/time of the incident conducted by Communications Division (CD) that no Department employee had been involved in this incident. The San Fernando Police Department (SFPD) was contacted, and a representative verified that two SFPD officers conducted a stop on the complainant's vehicle on the relevant date and time. Accordingly, the complaint was appropriately adjudicated as "Non-Disciplinary – No Department Employee," as to that allegation.

However, we believe that the I/O should have done more to determine whether LAPD officers could have been involved with any of the *other* incidents described by the complainant, as the

¹⁰ The officers were only asked if they conducted a "strip search." Sufficient follow-up questions, such as whether the accused officers pulled down the complainant's brother's underwear or touched any genitalia, were not asked. In fact, in one of the accused officer's interviews, no questions were asked about the strip search whatsoever until the officer's employee representative raised the issue.

¹¹ The complainant stated in his interview that Accused No. 1 conducted the "strip search" of his brother, while the complainant's brother consistently said it was Accused No. 2. However, in his e-mail to the Area CO, which was drafted two weeks after the complainant's interview, the complainant said that Accused No. 2 conducted the "strip search" of his brother.

complainant alleged that there were at least four additional instances when the complainant was stopped in front of his workplace. Since the complainant's workplace is adjacent to the Los Angeles/San Fernando border, it is plausible that LAPD could have been involved in these other incidents. Though we recognize that a person pulled over multiple times may typically have identified the agency represented by the involved officer(s), ultimately we believe the I/O could have solicited additional information (e.g., such as details about the uniforms or the precise locations of the other stops) from the complainant to shed light on whether LAPD or SFPD conducted these stops.

CF No. 06-3593

This complaint involved an accused officer working at Los Angeles International Airport (LAX). The accused issued a traffic citation to the complainant, a Black woman, for failure to stop for a pedestrian in a crosswalk. The complainant believed that the officer stopped and cited her due to racial profiling. The complainant maintained that when she asked the accused why she was stopped, the accused initially said, "you will find out when you go to court." However, the complainant later stated in her interview that the accused did eventually convey the real reason she was stopped.

During the traffic stop with the complainant, the accused issued a warning to a nearby female White driver who was illegally parked in a red zone. The accused warned this White woman to move her vehicle rather than issue her a citation. The complainant had observed this other driver illegally parked in the "bus only" zone. The accused stated that he explained to the complainant that the violations were different and that the other driver was from out-of-state and not familiar with the area.

The complainant also stated that the accused committed a traffic violation himself by following the complainant through the crosswalk to conduct the traffic stop. The complainant requested that a supervisor respond to the scene. The complainant believed she specifically requested a captain or chief.

Two allegations were framed by the Department – that the accused racially profiled the complainant when he stopped and cited her for failing to stop for a pedestrian in the crosswalk and for committing a traffic violation by following the complainant through the crosswalk to stop her for the traffic violation. The racial profiling allegation was "Unfounded," and the allegation regarding the accused officer's own violation was adjudicated as "Non-Disciplinary – Employee's Actions Did Not Rise to the Level of Misconduct." The adjudicator relied on what were characterized as issues with the complainant's credibility:

[D]uring [the complainant's] interview with IAG she initially stated [the accused] refused to tell her why he stopped her. Later, during the same interview, [the complainant] changed her statement indicating that [the accused] did inform her of the reason for the stop. Also during the interview, [the complainant] stated she did not observe the female White driver commit any type of violation, and did not know why [the accused] approached the driver. [The complainant] once again changed her statement indicating that she did in fact observe the female White driver illegally parked in a "Bus only" zone, and believed [the accused] approached the driver for the parking violation.

In addition, the adjudicator relied on a citation profile search conducted by the Department's Information Technology Division (ITD). The search revealed that 11.24% of the accused's citations involved African-American violators, and 62.39% involved Caucasian violators. Accordingly, the adjudicator found that no racial profiling had occurred.

a. Concerns About Interview Technique

The complainant stated in her interview with the I/O that the reporting supervisor for the complaint attempted to deter her from filing a complaint by inferring that the only reason she was filing a complaint was because she was Black and believed she had been racially profiled. The complainant specifically stated that when she spoke with the reporting supervisor regarding filing a complaint, he/she asked something to the effect of, "if you [the complainant] were the white woman [the other driver who was not cited] would you be making the call [to file a complaint]?"

The I/O did not follow-up to find out if these were the reporting supervisor's exact words. We believe the I/O should have asked more follow-up questions to get more specific information as to whether the complainant felt dissuaded from filing a complaint.

Moreover, the I/O also did not ask the accused whether he/she made the statement, "You'll find out [the reason for the stop] when you go to court." The I/O should have made a better attempt to resolve this issue and determine exactly what the accused told the complainant and when.

b. Paraphrasing Concerns

We also had concerns with the paraphrasing of the interviews. For example, the complainant stated that she asked for a captain, chief, or someone in charge, and that when another officer responded, she asked if he/she was a captain or chief; he/she said that he/she was. The complainant relayed that she later called IAG and was told that this person was not a chief or a captain, and essentially that she was not told the truth. The I/O's description in the complainant's paraphrased statement about this issue is directly contrary: "Another officer responded, but [he/she] told [the complainant] [he/she] was not a chief or captain."

IV. Department's Racial Profiling Investigation Protocols

On February 28, 2007, OIG staff met with command staff from Professional Standards Bureau as well as Consent Decree Bureau and the Commission. As a result of the meeting and subsequent discussions with the OIG as well as the Commission, the following protocols were developed. We believe these protocols should help to establish best practices for investigating racial profiling complaints.

The protocols begin with a definition of racial profiling from an International Association of Chiefs of Police publication:

Any police activity that relies on the race, ethnicity, or national origin rather than the behavior of an individual or information that leads police to a particular individual who has been identified as being, or having been, engaged in criminal activity.

“Racial Profiling” at its core concerns the invidious use of race or ethnicity as a criterion in conducting stops, searches, and other law enforcement investigative procedures. It is premised on the assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity.

We believe this is a comprehensive definition, as it encompasses police actions beyond merely the initial stop or detention, thus recognizing that profiling can also occur when officers conduct searches and other investigative procedures.

The protocols establish distinct steps an I/O should take when investigating complaints where at least one allegation involves racial profiling. These steps are advised to be taken in conjunction with the current protocols utilized by IAG investigators when conducting personnel investigations. The steps are divided among activities other than those that are self-initiated (where the officer responds to a radio broadcast or citizen flag-down) and self-initiated activities (where an officer stops someone using his/her own discretion).

For the “Other than Self-Initiated Activities,” the following steps are recommended by the Department:

- Interview the complainant to assess the viability of the racial profiling accusation, specifically examining complainant’s perspective regarding the behavior displayed by the accused.
- Determine if outside information (e.g., radio call or citizen flagdown) could have factored into the accused’s decision to detain the complainant.
- If outside information was a factor, determine if the detention was reasonable, looking at whether the complainant matched the description in the radio call and evaluating the factors the accused relied upon to conclude that there was a “match.”
- Examine any documentation related to the stop and include as addenda.
- The Department believes that “[I]f there are no other extenuating circumstances and the reason for the detention, search or other law enforcement activity is reasonable, legal and justified, no further investigation is necessary.”

With respect to the “Self-Initiated Activities,” the Department advises as follows:

- Gather all pertinent documents that could be related to the investigation.
- Interview all witnesses, including the complainant, and canvass the location.
- With respect to the accused interview, ask the officer to articulate the reason for the stop, search, or detention; ask the officer to give additional details if they say the reason for the stop was “officer safety,” an “uncooperative” complainant, or the “high crime area”; ask the officer to explain further if he/she says that race or ethnicity was a factor in the stop or detention; ask the officer to articulate the reason for the search if there was one; ask the officer about peripheral factors, if relevant, such as lighting conditions, distance away from

the complainant when making original observations, and tinted windows; identify and resolve inconsistent statements; ask follow-up questions as appropriate; and examine the officer's stop-data history as appropriate.

- Use additional investigative tools, as necessary, to complete the investigation.

The Department lists other considerations to be used to determine investigative strategy: "Racial Profiling" is the only allegation and can be disproved from the complainant's statement and there is no other evidence; or, the complainant cannot articulate any behavior on the part of the officer that can be construed as racial profiling, and there is probable cause for the detention, search, or other law enforcement activity. The I/O will make a determination as to whether officer interviews are necessary to determine whether or not probable cause existed and the actions taken were reasonable.

The Department also emphasizes that every complaint with a racial profiling allegation will be reviewed by the CO of either the Criminal Investigation Division or Administrative Investigation Division of Professional Standards Bureau prior to distribution to the CO for adjudication.

Moreover, the Department has developed a checklist, which generally incorporates the concepts outlined in the protocols above, for I/O's assigned to racial profiling investigations. We have reviewed the checklist and believe it covers the designated steps as outlined in the protocols. Finally, we understand that these materials are being incorporated into training designed by IAG to assist investigators in conducting racial profiling investigations, the first session of which was recently conducted.

The Department presented an earlier version of the protocols to the Commission on April 17, 2007. However, the Department indicated that they would be revising the protocols slightly. The proposed revised protocols are outlined above. We understand that these revised protocols are scheduled to be considered by the Commission on the same day as this Report. The OIG is pleased with the protocols, as we believe they represent a good starting point for ensuring consistency and sound investigative practices for these types of cases.

V. CUOFS Adopted Out-of-Policy or Administrative Disapproval by the Commission

During this Fourth Quarter, seven CUOF incidents were closed in which the Commission adopted a finding of out-of-policy or Administrative Disapproval (AD). Five were Officer Involved Shooting (OIS) cases, and two were Law Enforcement Related Injury (LERI) files. In all but two cases, the Commission adopted the findings of the COP. In one case, OIS No. 075-05, the Commission slightly modified the COP's recommendations as they related to tactics and training. In another, LERI No. 080-04, the Commission found one employee's use of force to be out of policy requiring Administrative Disapproval, whereas the COP had found this use of force to be in policy.

OIS No. 086-05

Off-duty Employee No. 1 entered the "drive-thru" lane of a fast food restaurant. Employee No. 1, while alone in his/her vehicle, pulled up behind a vehicle stopped at the pick-up window. Employee No. 1 observed the Suspect walk along the "drive-thru" lane. According to Employee

No. 1, the Suspect stopped at the vehicle in front and yelled profanities at its driver. Employee No. 1 stated that the handle of a small gun was protruding from the Suspect's waistband.

According to Employee No. 1, the Suspect then approached the Employee No. 1's vehicle, walking to its passenger side. As the Suspect did so, he yelled profanities at Employee No. 1. As the Suspect reached the passenger side of Employee No. 1's vehicle, Employee No. 1 could only see the Suspect from the chest and up and could no longer see the Suspect's hands. Employee No. 1 removed a service pistol, which had been tucked under his/her leg area earlier, and pointed it at the Suspect. Employee No. 1 stated when he/she drew the pistol, the Suspect moved a step or two toward the rear of the Employee's vehicle. Employee No. 1 fired one round through the vehicle's rear window at the Suspect's upper body area. The Suspect ducked down and began to run away.

As the Suspect reached the passenger side of Employee No. 1's truck, the Employee could only see the Suspect from the chest and up and could no longer see his hands. According to Employee No. 1, he thought the Suspect was going to open his/her truck door, shoot and rob him/her of his/her truck. Employee No. 1 removed the service pistol from underneath the leg area and pointed it at the Suspect. Employee No. 1 stated that the doors of his/her truck were unlocked. Though Employee No. 1's truck had electric locks, he/she never considered locking the doors during this incident.

According to Employee No. 1, when he/she drew the pistol, the Suspect moved a step or two toward the rear of the Employee's truck. Employee No. 1 thought that the Suspect had seen the weapon and was moving in order to use the door frame of the truck as cover. Holding the pistol with a one-handed grip, Employee No. 1 fired one round through his/her truck's rear window at the Suspect's upper body. The Suspect ducked down, then began to run away. There was no evidence recovered to indicate that the Suspect was struck by Employee No. 1's round.

Employee No. 1 stated that he/she exited the truck and used the truck's cab as cover. Employee No. 1 was initially unable to see the Suspect, and stood on top of a concrete curb in order to get a better view. From that position, Employee No. 1 saw the Suspect run away. Employee No. 1 stated that the Suspect was ordered to stop, but he/she did not identify himself/herself as a Department Employee.

The Suspect ran to the vicinity of a stopped bus. When the bus pulled away, Employee No. 1 could no longer see the Suspect and surmised that he got onto the bus. Employee No. 1 stated that as the Suspect was running away, he/she tried to use the Suspect's cellular phone but could not get it to work. Employee No. 1 then verbally identified himself/herself as a Department Employee with no display of a police identification card or badge to a restaurant employee. Employee No. 1 told a Witness that he/she needed to use his telephone. Employee No. 1 secured his/her pistol in the rear of his waistband.

The Witness heard two or three shots. The Witness opened the car door and asked Employee No. 1, "Did he shoot you?" Employee No. 1 replied, "No, I shot him," then told the Witness that he/she was a Los Angeles Police Officer. Employee No. 1 then asked the Witness for his cellular phone.

Employee No. 1 used the Witness' telephone to call his/her Area Watch Commander. Employee No. 1 was connected to Employee No. 2. Employee No. 1 informed Employee No. 2 of the OIS and that the Suspect had tried to rob him/her, and that the Suspect had escaped on an MTA bus. Employee No. 1 also provided a brief description of the Suspect.

Employee No. 2 broadcast a request for any units in the area to respond to Employee No. 1's location. Employee No. 2 did not broadcast the descriptive information Employee No. 1 provided regarding the Suspect. Employee No. 3 was in the Watch Commander's office when Employee No. 2 took Employee No. 1's telephone call and was directed by Employee No. 2 to respond to the scene of the OIS.

Employee No. 4 and Employee No. 5 monitored Employee No. 2's broadcast, responded to Employee 1's location, and were the first unit to arrive on the scene. Employee No. 4 and Employee No. 5 did not inform CD that they were responding to the emergency call. The Suspect was not captured and, to date, has not been identified.

The COP found Employee No. 1's tactics deficient, requiring an AD finding. Additionally, the COP directed Employee No. 1's Commanding Officer (CO) to schedule Employee No. 1 for the appropriate tactical training at Training Division (TD).

The COP recommended that Employee No. 1's tactics be found out of policy because Employee No. 1 should have exited his/her vehicle to obtain a better tactical position prior to engaging the Suspect instead of remaining seated inside the vehicle, allowing the Suspect to approach the passenger side, and placing Employee No. 1 at a tactical disadvantage. Employee No. 1 failed to consider locking the vehicle doors and did not attempt to speak to the Suspect; nor did he/she give him any commands to get away from his/her vehicle.

The COP further found the tactics to be out of policy because after the OIS, Employee No. 1 approached the Witness while still holding the service pistol in his/her hand; Employee No. 1 did not identify himself/herself as a police employee and did not display his/her identification card or badge. Subsequently, Employee No. 1 placed his/her unholstered pistol in the rear waistband with no visible identification displayed. Finally, Employee No. 1 utilized the Witness' phone and called the front desk of the Employee's division, instead of 9-1-1.

The Commission concurred with the COP's recommendations and also found that Employees No. 2 and No. 3 would benefit from additional training by their CO. The Commission recommended that Employee Nos. 2 and 3 tactics be found out of policy because, at the time, they responded to the incident using emergency lights and sirens without informing CD that they were doing so. The Commission further found that Employee No. 2 did not obtain sufficient details regarding the incident when he/she spoke with Employee No. 1 after the OIS.

The COP found Employee No. 1's drawing and exhibition of a firearm out of policy and directed the Area CO to schedule Employee No. 1 for the appropriate training regarding drawing, exhibiting, and holstering. In addition, the Employee placed the unholstered service pistol under the right thigh, and Employee No. 1 stated that he/she always places his/her unholstered pistol under the right thigh area while driving through his/her assigned Area.

The COP further found that Employee No. 1's drawing and exhibition of a firearm warranted an out of policy conclusion because after the OIS, Employee No. 1 did not secure his/her firearm in a holster but placed it in his/her rear waistband.

The COP also found Employee No. 1's use of force out of policy, requiring an AD finding. Additionally, the COP directed the Area CO to schedule Employee No. 1 for training.

The COP recommended that Employee No. 1's use of force be deemed out of policy because he/she feared the Suspect would remove what he/she believed to be a weapon from his waistband and shoot him/her even though while seated in the vehicle, he/she had a limited view of the Suspect's upper torso. The COP noted that Employee No. 1 could not see the Suspect's hands, nor a weapon. The COP determined that, at the time Employee No. 1 fired the weapon, there was no immediate threat of serious bodily injury or death.

The Commission concurred with the COP's recommendations.

A complaint investigation regarding Employee No. 1's actions was initiated, CF No. 06-0879, which alleged that Employee No. 1, while off-duty, became involved in an OIS. Three allegations were framed against Employee No. 1 for utilizing Unauthorized Force, Unauthorized Tactics, and inappropriately drawing his/her weapon. The allegations were Sustained. Employee No. 1 received a 10-day suspension, as well as training in use of force/field tactics. The OIG believes that the penalty and the referral to training were appropriate.

OIS No. 044-04

Uniformed Employees No. 1 and No. 2 were riding with a Parole Agent. The Employees observed a male subsequently identified as the Suspect standing outside the front security gate between two apartment buildings.

Employee No. 2 observed the Suspect talking on a cellular telephone and informed Employee No. 1 of his/her observations. As the Employees stopped the police vehicle, Employee No. 2 stated the Suspect looked in their direction and immediately brought his left hand down forcefully, brought his right hand to his waistband, and grabbed an object underneath his shirt. Employee No. 2 formed the opinion that the Suspect was armed with a handgun and stated he/she advised Employee No. 1 that the Suspect had a "strap."¹²

The Employees and the Parole Agent exited the vehicle, and Employees No. 1 and No. 2 approached the Suspect. The Employees did not notify CD of their status or location. The Suspect entered the gate, closed it behind him and ran northbound between the buildings. Employee No. 2 reached the gate and was unable to gain entry due to it being locked. Employee No. 1 ran west to the driveway of the adjacent residence and observed the Suspect climb a fence on the eastside of the driveway and run toward the alley. The Suspect opened a metal gate to the rear of the residence and continued running westbound on the east/west alley north of the location. Employee No. 1 pursued the Suspect down the alley on foot.

¹² "Strap" is vernacular for "gun." Neither Employee No. 1 nor the Parole Agent stated they heard Employee No. 2's warning regarding the Suspect having a gun.

In the interim, having lost sight of the Suspect, Employee No. 2 ran westbound toward the adjacent building. Not observing Employee No. 1 down the driveway, Employee No. 2 drew his/her service pistol and illuminated the driveway with his/her flashlight. Employee No. 2 stated he/she walked northbound in the driveway and called out for Employee No. 1.¹³

Employee No. 2 stated he/she knew that Employee No. 1 was in foot pursuit; however, he/she elected not to join the foot pursuit due to concern for the Parole Agent's safety. Employee No. 2 ran back to the police vehicle, holstered his/her pistol and advised the Parole Agent to enter the police vehicle. Employee No. 2 then drove around the block to the alley to cut off the Suspect's avenue of escape.

Meanwhile, as Employee No. 1 pursued the Suspect westbound in the alley, Employee No. 1 observed the Suspect enter the rear parking lot of a nearby building. Employee No. 1 followed the Suspect into the parking lot. The Suspect ran southbound through the parking lot to the northeast corner of the building where he continued southbound on the eastside of the two-story apartment building. As Employee No. 1 reached the northeast corner of the building and ran around the corner, Employee No. 1 stated he/she came face to face with the Suspect who had turned toward him/her and was approximately ten feet away.

At this time, Employee No. 1 stated he/she observed muzzle flash coming from a pistol held by the Suspect and felt two rounds strike him/her in the lower right abdomen and the right hip/upper thigh. Employee No. 1 stepped back to use the corner of the building as cover, drew his/her service pistol, and in immediate defense of his/her life, fired fourteen rounds at Suspect No. 1, resulting in the service pistol going empty. Aware he/she had been shot, Employee No. 1 re-deployed northbound behind a parked vehicle and reloaded the pistol.

Employee No. 1 reached for the ASTRO radio to broadcast, but realized he/she did not have it in the holster. Employee No. 1 then observed that he was bleeding from his right leg, felt dizzy and fell to his knees. Employee No. 1 stated he/she looked south toward the location that the Suspect was last seen at, observed an arm reaching around from the front of the building, and believed the Suspect was aiming his gun at him/her again. In immediate defense of his/her life, Employee No. 1 fired one additional round at the perceived threat.

In the interim, Employee No. 2 and the Parole Agent drove toward the alley where they believed No. 1 was located. As they drove, Employee No. 2 stated he/she heard six to eight gunshots. Employee No. 1 stopped the police vehicle at the rear of a building, where he/she believed Employee No. 1 had been in foot pursuit. At this time, Employee No. 2 heard an additional shot. Employee No. 2 drew his/her service pistol, made the way to the area where the shots were heard and located Employee No. 1. Employee No. 2 asked Employee No. 1 where Suspect No. 1 was located, and Employee No. 1 responded he/she had been shot. Employee No. 2 noted that Employee No. 1 had been wounded. Employee No. 1 took possession of Employee No. 1's service pistol and secured it in his/her right front trouser pocket.

¹³ Employee No. 1 stated that as he/she ran down the alley, he/she heard Employee No. 2 tell Employee No. 1 to switch the radio to simplex. Employee No. 1 stated that the ASTRO radio was switched on simplex and advised Employee No. 2 that he/she was in foot pursuit westbound in the alley after the Suspect. Employee No. 2 did not hear this broadcast.

Employee No. 2 then made two broadcasts requesting help; however, he/she did not provide the officers' location due to not knowing it. The Agent observed responding units speeding past them and informed Employee No. 2 who told the Agent to cover Employee No. 1. Employee No. 2 moved to the front of the building and broadcast "shots had been fired, officer down." Employee No. 2 then used his/her flashlight to signal the location for the responding units.

Employee Nos. 3 through 8 responded to the location. Employee No. 3 ran to Employee No. 1 and observed that he/she had been shot in the right leg. Employee No. 3 then placed Employee No. 1 over his/her shoulder and carried Employee No. 1 to the street to await paramedics.

Employees Nos. 4 and 5 were deployed at a nearby intersection, when they observed a male matching the Suspect's description walking eastbound from between residences. As the Suspect approached the officers, they observed he had a shirt wrapped around his right arm covering a bloody wound and detained him for identification. Employee No. 2 walked to their location and positively identified the male as the Suspect Employee No. 1 had pursued.

Paramedics arrived and treated Employee No. 1 for gunshot wounds to his/her abdomen and his/her right hip/upper thigh area. Employee No. 7 accompanied Employee No. 1 in the ambulance and obtained a public safety statement. Employee No. 8 approached Employee No. 2 and obtained a public safety statement from him/her.

The COP found Employees Nos. 1's and 2's tactics to be seriously deficient, requiring AD. Additionally, he directed the CO to schedule them for tactical training at TD.

The COP was critical of Employee No. 1 and No. 2's tactics because they did not notify CD of their location or broadcast that they were in foot pursuit. As the incident unfolded, the officers failed to communicate with each other. Employee No. 2 did not make a broadcast when he/she heard shots fired and he/she was unaware of his/her location when help was requested.

The COP was further critical of Employee Nos. 1 and 2's tactics because they separated when the Suspect fled from them. Employee No. 1 pursued the Suspect alone on foot down the alley, while Employee No. 2 elected to drive the police vehicle around to the alley to block the Suspect's avenue of escape. Additionally, when Employee No. 1 realized that he/she had fired all the rounds, he/she should have immediately reloaded prior to re-deploying.

The COP found Employee Nos. 1 and 2's drawing/exhibition of a firearm in policy, no action.

The COP found Employees Nos. 1 and 2's drawing and exhibition of a firearm in policy because having lost sight of the Suspect, Employee No. 2 turned toward the police vehicle and observed the Parole Agent; however, he/she did not see Employee No. 1. Employee No. 2 ran westbound toward the adjacent building. Not observing Employee No. 1 down the driveway, Employee No. 2 drew his/her service pistol and illuminated the driveway with the flashlight. Employee No. 2 holstered his/her firearm prior to driving around to the alley. As he/she drove to and came to stop in the alley, Employee No. 2 heard shots fired. Employee No. 2 exited the police vehicle and drew his/her firearm.

As Employee No. 1 reached the northeast corner of the building and ran around the corner, Employee No. 1 stated he/she came face to face with the Suspect who had turned toward him/her and was approximately ten feet away. At this time, Employee No. 1 stated he/she observed muzzle flash coming from a pistol held by the Suspect and felt two rounds strike him/her in the lower right abdomen and the right hip/upper thigh. Employee No. 1 stepped back to use the corner of the building as cover and drew the service pistol.

The COP found Employee No. 1's use of force in policy, no action.

The COP recommended that Employee No. 1's use of force be in policy because as Employee No. 1 reached the northeast corner of the building and ran around the corner, Employee No. 1 stated that he/she came face to face with the Suspect who had turned toward him/her and was approximately ten feet away. At this time, Employee No. 1 stated he/she observed a muzzle flash coming from a pistol held by the Suspect and felt two rounds strike him/her in the lower abdomen and hip/upper thigh. Employee No. 1 stepped back to use the corner of the building as cover, drew his/her service pistol, and in immediate defense of his life, fired fourteen rounds at the Suspect, emptying the service pistol. Aware he/she had been shot, Employee No. 1 re-deployed northbound behind a parked vehicle and reloaded the pistol.

Employee No. 1 reached for the ASTRO radio and attempted to broadcast, but realized he/she did not have it in the holster. Employee No. 1 then observed that he/she was bleeding from his right leg, felt dizzy and fell to his/her knees. Employee No. 1 stated he/she looked south toward the location that the Suspect was last seen, observed an arm reaching around from the front of the building, and believed the Suspect was aiming his gun at him/her again. In immediate defense of his/her life, Employee No. 1 fired one additional round at the perceived threat.

The Police Commission adopted the COP's recommendations in this case.

A complaint investigation regarding Employee No. 1 and Employee No. 2's actions was initiated on the day that the incident occurred, CF No. 05-1568. This investigation alleged that Employee No. 1's and Employee No. 2's tactics were improper during an OIS. Three allegations were framed against Employee No. 1 and Employee No. 2 for Unauthorized Tactics. The allegations were sustained. Employee No. 1 received an Admonishment, and Employee No. 2 received a 22-day suspension as well as formal tactical training.

A review of Employee No. 2's complaint history revealed five instances where the Department expressed concern over his/her tactics at OIS, Law Enforcement Related Injury (LERI) and non-categorical use of force incidents in 1996, 2002, 2003, and two in 2004.

The OIG believes that the penalty provided to each employee was appropriate.

OIS No. 072-05

The Employee was seated alone in the living room of his/her residence, cleaning and putting tactical lights on his/her personally owned handguns. The Employee indicated that he/she had completed cleaning the semi-automatic pistol and during this process he/she had inadvertently seated a partially loaded magazine and released the pistol slide that chambered a round.

Thereafter, the Employee, mistakenly believing that the weapon was not loaded, pulled the trigger on the weapon, causing the weapon to discharge.

The Employee received a through and through bullet wound to his/her left hand just below the little finger. The bullet traveled through the Employee's hand, then through the back of a couch, and the living room wall adjacent to the couch, entering the garage and striking the metal back of a clothes dryer before falling to the garage floor.

When the weapon discharged, Witness No. 1 was in the backyard washing her dog. Witness No. 2 was in a bedroom inside the residence. Witness No. 2 exited the bedroom and observed the Employee standing in the hallway outside the family room, bleeding from the gunshot wound. The Employee instructed Witness No. 2 to call 911. Witness No. 2 was unable to get through to 911, so Witness No. 1 drove the Employee to the hospital, where the Employee was treated and released from the hospital the same day.

The COP found that the Employee's use of force was negligent, requiring AD. The COP directed the Employee's CO to schedule the Employee for additional firearms training at TD.

The Police Commission concurred with the COP's finding that the Employee was negligent, requiring AD.

As a result, a related complaint investigation, CF No. 05-5873, was initiated. This investigation resulted in one allegation that the Employee became involved in a negligent discharge of his weapon. The allegation was Sustained, and the Employee received a two-day suspension. The OIG believes that the penalty was appropriate given the negligence demonstrated by the employee in this instance. However, the Employee's training record does not reflect that the directed training has been completed.

OIS No. 075-05

Employee No. 1 (a higher ranking employee) and Employee No. 2 were assigned to conduct an investigation into what was, at the time, an attempted murder¹⁴ of an unidentified victim. Employee Nos. 1 and 2 were dressed in plainclothes and wearing their badges on their belts. Witness No. 1 informed officers that witness No. 2 might be able to identify the victim.

Employee Nos. 1 and 2 left the crime scene in an attempt to locate Witness No. 2. Employee No. 2 was driving an un-marked police vehicle. Employee No. 1 was seated in the front passenger seat. Employee No. 2 noticed Witness No. 3 working on a car while holding a hammer in his hand. As Employees Nos. 1 and 2 continued driving slowly, they observed a parked car near which Suspect No. 1 was standing.

Employee No. 2 advised Employee No. 1 that he/she found the truck they were looking for. At this time, the police vehicle had passed Suspect No. 1's position, and Employee No. 1 described Suspect No. 1 as being behind him/her, over his/her right shoulder. At that time, Suspect No. 1 yelled at the officers something to the effect of, "Who are you?"

¹⁴ The victim subsequently died and, as such, the investigation became a homicide investigation.

In response, Employee Nos. 1 and 2 told Suspect No. 1, "We're the police." Employee No. 2 stated that he/she looked over his/her shoulder, observed Suspect No. 1 approaching his/her rear bumper, and saw Suspect No. 1 draw a gun out of his waistband. Employee No. 2 did not advise Employee No. 1 of his/her observations, believing that Employee No. 1 knew what was going on. Employee No. 2 stated he/she yelled, "Police, police!" Witness No. 4 heard the officers say, "It's me. It's me." He also heard Suspect No. 1 respond "Who's me?" Suspect No. 1 stated that Employee Nos. 1 and 2 only identified themselves as police officers after Suspect No. 1 had been shot. Suspect No. 1 stated that he approached the police vehicle with nothing in his hands.

According to Employee Nos. 1 and 2, Suspect No. 1 then exclaimed, "F**k the police" and rapidly approached the police vehicle on foot on the passenger side, where Employee No. 1 was seated. According to Employee No. 1, Suspect No. 1 was paralleling the police vehicle on the sidewalk. At or about this time, Employee No. 1 drew his/her service pistol with his/her left hand from a holster on his/her right hip, believing Suspect No. 1 was a threat. Employee No. 2 drew his/her service pistol with his/her right hand from a left-sided shoulder holster. Employee No. 1 kept visual contact with Suspect No. 1 as he "paralleled" the police vehicle while the vehicle continued to move south. Employee No. 1 then stated that Suspect No. 1 suddenly approached very close to the police vehicle, within six feet. According to Employee No. 2, Suspect No. 1 approached within approximately one foot of the vehicle's passenger window. According to Suspect No. 1, before he could get to the car, Employee No. 1 started shooting him. Employee No. 1 noticed that Suspect No. 1's right hand was extended as Suspect No. 1 advanced upon him/her, and Suspect No. 1 had an object in that hand. Employee No. 1 perceived the object to be a blue steel handgun. Employee No. 1 then heard two to three shots as Suspect No. 1 continued to advance towards him/her.

Believing that Suspect No. 1 was trying to kill the officers, Employee No. 1 responded by firing three rounds from his/her .38 caliber revolver with his/her left hand, which was bent at a 45 degree angle, towards Suspect No. 1. Employee No. 1's pistol contained a total of five rounds. Later analysis by Scientific Investigation Division employees discovered that three of these rounds successfully discharged, and the other two rounds had primer strikes, indicating that Employee No. 1 attempted to fire those two rounds but they did not discharge. Suspect No. 1 stated that he is left-handed and asked Force Investigation Division (FID) detectives, "How would I shoot towards them if I'm left handed and they shot me in my right hand?"

Meanwhile, Employee No. 2 observed a muzzle flash and believed that Suspect No. 1 shot Employee No. 1. Employee No. 2 then noticed that Employee No. 1 began to fall back towards him/her, with his/her back towards the windshield. Believing that Employee No. 1 had been shot, Employee No. 2 reached with his/her right arm across Employee No. 1's back as Employee No. 1 turned, pushed Employee No. 1 out of the way, and fired two rounds towards Suspect No. 1 with his/her pistol in his/her right hand. Employee No. 1 fired because he/she heard gunshots he/she believed came from Suspect No. 1's pistol. Employee No. 2 fired because he/she observed a muzzle flash he/she believed came from Suspect No. 1's pistol. Physical evidence shows that the pistol likely possessed by Suspect No. 1 was fully loaded, indicating that the pistol was not fired. Thus, it is unknown if Employee No. 1 or Employee No. 2 shot first, given that they both shot their weapons after they perceived someone else shooting. Employee No. 2 then attempted to put his/her vehicle in park, while simultaneously attempting to

unlock the car doors. As he/she was doing so, Employee No. 2 unintentionally fired one round from his/her pistol through the police vehicle's windshield. Three 9mm casings were discovered inside the police vehicle. Given that one round was fired through the police vehicle's windshield, it appears that Employee No. 2 fired two rounds elsewhere, likely towards Suspect No. 1. Thus, although Employee No. 2 believes he/she only fired one round at Suspect No. 1 from inside the police vehicle, the physical evidence demonstrated that Employee No. 2 likely fired two rounds at Suspect No. 1 from inside the police vehicle.

Employee No. 2 managed to get his/her vehicle door open and he/she exited, while identifying him/herself again as a police officer. Employee No. 2 observed Suspect No. 1 run while still holding the gun. Believing that Employee No. 1 had been shot, and believing that Suspect No. 1 was a danger to the public, Employee No. 2 fired again at Suspect No. 1 as he fled. Employee No. 2 then ran towards a parked vehicle and stood on the driver (street) side of that vehicle. According to Employee No. 2, Suspect No. 1 continued to run in the street, Suspect No. 1 turned in Employee No. 2's direction and pointed the gun with his right hand at Employee No. 2. Believing that Suspect No. 1 was about to shoot him, Employee No. 2 fired several additional rounds at Suspect No. 1, as he ran towards a house. Employee No. 2 then lost sight of Suspect No. 1, and he/she ceased fire. Suspect No. 1 stated that after he was shot, he ran back towards his grandmother's house. When he heard an officer say, "Get down on the floor," he stopped and got down. Employee No. 1 was not aware that Employee No. 2 ever fired his/her weapon. Employee No. 2 fired a total of seven rounds from his/her 9mm Beretta pistol. Three of these rounds were fired from inside the police vehicle. The remaining four rounds were fired from two shooting positions outside the police vehicle.

Meanwhile, Employee No. 1, while still seated in the police vehicle, observed Suspect No. 1 retreat back towards the group he earlier observed, and lost sight of Suspect No. 1. Employee No. 1 realized that the vehicle he/she was in was still moving and looked to his/her left to see if Employee No. 2 was hurt. Employee No. 1 did not observe anyone in the driver seat of the vehicle, but noticed that the driver's door was open. Employee No. 1 determined he/she could not exit his/her side of the vehicle safely, given that Suspect No. 1 was on that side of the vehicle. As such, he/she jumped out of the driver side door of the police vehicle as the vehicle continued to move, with his/her gun still in hand. Employee No. 1 stated that he/she dove out of the vehicle headfirst, with his/her arms extended, and landed in a "prone" position on the pavement. The unoccupied police vehicle continued and collided with a parked vehicle and then a fence, where it finally came to rest.

Employee No. 1 observed Suspect No. 1 run between two houses. Employee Nos. 1 and 2 observed Witness No. 5 and Witness No. 6 inside a car and ordered them to exit the vehicle and lay down on the ground. At the time, Employee Nos. 1 and 2 did not know if these witnesses were actually additional suspects. As these witnesses were being detained, Employee No. 2 observed Suspect No. 1 return to sight from a "little archway."

In response, Employee No. 2 pointed his/her gun in Suspect No. 1's direction and ordered him to the ground. Employee No. 2 moved from his position to a place of cover. Employee No. 1 also took cover and used his/her cellular phone to call and request help. The police vehicle was equipped with an ASTRO radio. However, neither Employee No. 1 nor Employee No. 2

retrieved the radio when they exited the vehicle.

Following the help call, uniformed officers arrived at the scene. Suspect No. 1 and Witness Nos. 4 through 7 were each handcuffed. At that time, Employee No. 2 de-cocked and re-holstered his/her pistol. Employee No. 1 placed his/her pistol in his/her waistband.¹⁵

A subsequent search of the area resulted in the discovery of a fully loaded, .38 caliber revolver placed in an air vent underneath a home, in the area where Employee Nos. 1 and 2 observed Suspect No. 1 run towards. A check of this weapon revealed that none of the six rounds in the gun had discharged. However, the bullet directly underneath the firing pin of the gun had a primer strike, indicating that someone may have attempted to fire that bullet.

Suspect No. 1 stated that he was not a member of a gang. However, according to the FID report, Suspect No. 1 was a documented member of a gang. Witness No. 4 believed that Suspect No. 1 was in a gang, and Witness No. 6 believed that Suspect No. 1 was a member of a gang.

Suspect No. 1 stated that he did not own a gun. However, Witness No. 6 stated that Suspect No. 1 did own a gun and she had seen him with it in the past. Four other witnesses all indicated that they had never seen Suspect No. 1 possess a firearm.

Employee No. 1 received an abrasion to his/her left hip area, just below his/her waistline, as a result of exiting the moving vehicle.

Suspect No. 1 was charged with two counts of attempted murder on a peace officer as a result of this incident. Suspect No. 1 received one gunshot wound to the right arm and was later cleared by the hospital for booking.

The COP determined that Employee No. 1's lethal use of force was reasonable to stop Suspect No. 1's actions. The COP found Employee No. 1's use of force to be in policy, no action. The COP also determined that Employee No. 2's lethal use of force, rounds one and two, and four through seven, were reasonable to stop Suspect No. 1's actions. The COP found Employee No. 2's lethal use of force, rounds one, two, and four through seven, in policy, no action.

The COP found that Employee No. 2's use of force, specifically round three, was negligent, requiring AD. The COP noted that Employee No. 2 failed to adhere to basic firearm safety rules including never allowing the muzzle to cover anything the officer is not willing to destroy, keeping one's finger off the trigger until his/her sights are aligned on the target and the officer intends to shoot, and being sure of the intended target.

The COP directed the CO to schedule Employee No. 2 for additional firearms training at TD. The COP also determined that Employee Nos. 1 and 2 would benefit from additional tactical training. The COP directed the CO to provide and document the appropriate training.

¹⁵ Employee No. 1's holster was dislodged from his/her waistband when he/she drew his/her pistol while in the police vehicle.

The Commission amended the COP's recommendations to include a finding that Employee No. 2 should receive formal training at TD instead of divisional training as previously recommended by the COP.

As a result of the AD finding for Employee No. 2, a related complaint investigation, CF No. 06-4040, was initiated. The investigation resulted in one allegation that Employee No. 2, while on duty, had an accidental discharge of his/her service pistol resulting in an AD finding. The allegation was Sustained, and the employee received No Penalty.

The OIG believes that the lack of penalty for Employee No. 2 in light of the fact that he/she was to receive, and did receive, formal training in firearms at TD, was not unreasonable.

OIS 104-04

There was a plan to conduct an integrity audit, using a scenario involving a handgun. The plan was to conduct this audit between 8:00 p.m. and 10:00 p.m.

The operation was delayed because video feed from the cameras in the field to the Command Post was not functioning properly. Once these concerns were addressed, an undercover (UC) was deployed, and a wire check was conducted. However, the shelf life of the battery for the wire that the UC was equipped with was approximately two hours. At this point in the operation, the UC had been deployed for in excess of one hour.

At approximately 11:15 p.m.,¹⁶ the Command Post instructed the Emergency Response Team (ERT) to contact the UC and bring him/her in to switch out his/her equipment. The ERT consisted of Employee Nos. 1, 2, and 3. The ERT was in a minivan parked on the northwest corner facing south. Employee No. 4 and Employee No. 5 were in a car and were parked right behind the ERT van.

The Contact Team responded to the phone booth where a segment of the audit was to be conducted, and the UC was cleared to return to the ERT van. The UC rode his/her bicycle south on the street and, then, east onto another street. As he/she turned east onto the street, he/she was no longer visible to the Contact Team or any other personnel involved in this operation. The ERT moved their van around the corner onto the street facing west. The ERT could not see the UC until he/she was about mid-block between two streets. Once they could see him/her, they turned the van around and returned to their initial position just north of the street. The ERT lost sight of the UC as they repositioned their van.

As the UC was riding east on the street, he/she observed three males in front of one of the residences on the south side of the street. They were walking toward him/her at a fast pace. One of the males yelled, "Hey, motherf**ker, come here." The UC did not respond and began to ride as fast as he/she could toward the ERT van. It was difficult for the UC to ride fast because one of the pedals on the bicycle he/she was riding was broken. As this was transpiring, the UC was verbally describing the situation over his/her wire. However, the wire was not transmitting, so

¹⁶ By this time of day, the area in which the audit was to be conducted normally became heavy with narcotic and gang activity.

no one was aware that the UC was in danger. As he/she rode along, the UC could hear the sound of car doors closing and screeching tires.

As the UC approached the ERT van, a car drove up behind him/her. When the vehicle reached the intersection, it stopped facing east in the westbound lane. The vehicle negotiated a left-hand turn and pulled up parallel to the ERT van. One of the occupants of the vehicle then opened fire on the ERT van. One of the rounds hit and shattered the back passenger side window in the van. Employee No. 3 was sitting in the back seat next to this window. Employee No. 3 advised Employee No. 1 that they were being shot at and to move forward to get out of the "kill zone." When Employee No. 1 shifted the van into drive, the doors on the van automatically locked. This prevented the UC from being able to get into the van. The van accelerated south through the intersection of two streets. In order to keep the van as cover, the UC was forced to drop his/her bicycle and run along next to the van. Employee No. 1 stopped the van and the ERT was then able to get the UC into the van. Employee No. 3 put a "shots fired" call out on an internal frequency. He/she broadcast that they had been shot at but no one was hit.

When Employee No. 4 first observed the UC approach the ERT van, he/she had begun to exit his/her car with the equipment that needed to be switched out in his/her hand. As he/she was exiting his/her vehicle, he/she heard Employee No. 5 ask something along the lines of, "Who the hell is that?" Employee No. 4 then heard shots being fired. He/she observed the suspect's vehicle that had pulled up next to the ERT van. He/she observed muzzle flashes coming from the suspect's vehicle that appeared to be directed at the ERT van. Employee No. 4 crouched behind his/her open driver's side door, drew his/her weapon, and began to fire in the direction of the muzzle flashes. The muzzle flashes then appeared to be directed at Employee No. 4. Employee No. 4 fired five rounds in rapid succession in the direction of the muzzle flashes as the suspects vehicle passed him/her. The suspect vehicle then accelerated.

As the ERT was responding to the pre-designated meeting location, they observed a patrol unit within about two blocks of the scene. They did not approach the unit. The employees indicated that they were under the impression that the Command Post would take care of any notifications regarding the shooting incident that needed to be made to the local Division. They were also concerned for their safety as their window was shot out and they were concerned that they might be mistaken for suspects. Other undercover personnel assigned to the operation stayed at the designated location to maintain control over the vehicles involved in the shooting.

Employee No. 6, a command staff officer, contacted the Department Command Post and asked that he/she be connected to Employee No. 7. Employee No. 6 relayed what he/she knew of the incident to Employee No. 7 and asked that he/she relay the information to the COP when he/she picked him up in the morning for his out-of-town trip.

There appears to have been some confusion regarding who was responsible for making the proper notifications. Employee No. 6 was under the impression that Employee No. 8, a supervisor, was making the notifications and did not consider him/herself to be the Incident Commander. However, Employee No. 8 was aware of the phone calls that Employee No. 6 was making after the incident. Accordingly, the Department Command Post was never officially notified of this incident.

COP Report

The COP was concerned with the pressure placed on the operation's personnel to complete the audit prior to the implementation of upcoming transfers within the involved division, despite encountering multiple problems during the execution of the plan. The COP had multiple concerns with the operation plan, the implementation of the plan and the actions taken after the shooting incident. The COP was also concerned that the ERT pulled away from the shooting before having recovered the UC.

The COP's concerns regarding the operation plan included:

- The inadequacy and failure of the communication equipment.
- The use of a loaded firearm as a prop.
- The lack of cover officers within close proximity to the UC.
- Limiting the staff with authority to abort the operation to the UC and the Officer-In-Charge.
- The unsafe hour at which the audit was conducted.
- Putting the confidentiality of the involved personnel and the operation before the safety of officers.
- The deployment of an employee (UC) who was conspicuous.
- Inadequate precautions to recover the UC.
- The faulty condition of the bicycle on which the UC was deployed.

The COP's concerns regarding the implementation of the plan included:

- Having the UC deployed at an unsafe hour.
- Continuing the operation despite communication problems.

The COP's concerns regarding the actions taken after the incident included:

- The delays in putting out a "shots fired" broadcast on the internal frequency.
- The failure of the operations personnel to attempt to follow the suspects.
- The failure of operations personnel to promptly set up and preserve the crime scene, resulting in a 27 minute delay in securing the scene.
- The confusion regarding who was the Incident Commander and who was making the required notifications.
- The fact that the COP was not notified of the incident until the next morning and the Acting COP was not notified until 23 hours after the incident.

Based on the above, the COP determined that the tactics of Employee Nos. 1, 2, 3, 6, 8 and 9 were seriously deficient and required an AD finding. The COP directed the CO to schedule all involved personnel for formal training at TD.

The Commission adopted the COP's recommendations with the modification that Employee No. 10 also receive AD for tactics because of his /her involvement in the planning of the operation. As a result, a related complaint investigation, CF No. 05-4980, was initiated. The investigation resulted in seven allegations. One allegation was that Employee No. 6 participated in the management and direction of a targeted integrity "sting" audit in which the operation plan, tactics used in carrying out that plan, management oversight of the officer involved shooting incident and required notifications were substantially deficient, resulting in an AD finding.

Another three employees were alleged to have participated in the management and direction of a targeted integrity "sting" audit in which the operations plan and tactics used in carrying out that plan were substantially deficient. The remaining three employees were alleged to have used tactics during a use of force incident found to be deficient resulting in an AD. All these allegations were Sustained, and all employees received an Admonishment.

The OIG believes that the penalty was appropriate for all seven Employees given their lack of previous disciplinary history and the fact that they were also to be given tactical training as a result of this incident.

LERI No. 080-04

Los Angeles County Sheriff's Department (LASD) Deputies Nos. 1 and 2 responded to a radio call of a man with a gun at a residence. Upon their arrival, the Deputies were met by Suspect No. 1 who informed them that she was involved in an altercation with her daughter's boyfriend, Suspect No. 2, a known gang member, and that Suspect No. 2 had returned to the residence with his father, Suspect No. 3, and two brothers, Suspect Nos. 4 and 5, also known gang members.

When the other suspects returned, Suspect No. 1's brother, Suspect No. 6, armed himself with a handgun and stepped out onto the front porch. Suspect No. 3 raised his shirt, exposing a handgun in his front waistband and warned Suspect No. 6 that he would need a bigger handgun to take him on. The suspects left the location in two separate vans and a beige vehicle. The Deputies were advised that the suspects lived in the area.

When the Deputies responded to the location, they observed LAPD Employee No. 1, and Employee No. 2 and flagged them down. The Deputies advised the Employees about the incident and requested their assistance. Employee No. 1 broadcast a request for additional units, which included Employees Nos. 3-8.

Once assembled, the Employees were advised of the incident and provided with a description of the suspects' vehicles. Employee No. 6, familiar with the Suspect No. 2's family, assisted with formulating the tactical plan to locate Suspect No. 2's family.

While en route to check out a location, Employees Nos. 3 and 4 observed a large group loitering and drinking alcoholic beverages to the rear of a restaurant. The males in the group had shaved heads and baggy clothing and appeared to be gang members. Employee Nos. 3 and 4 believed that Suspect No. 2's family was among the group and advised the other units of their observations via the base simplex frequency and turned south into the driveway at the location.

Simultaneously, the officers observed three to four of the males running on the side of the restaurant. Employee No. 3 recognized one of the males as Suspect No. 7, a known gang member. Employee No. 3 broadcast his/her observations. Shortly thereafter, Employee Nos. 1 and 2, and 5-8 arrived at the location along with Deputy Nos. 1 and 2.

Employee Nos. 3 and 4, along with the additional units, approached the group, which had begun to disperse. The officers and deputies detained the remaining group members in the parking lot and directed them to face the south wall with their hands on top of their heads.

In the interim, Employee Nos. 7 and 8 observed a dark colored vehicle hastily driving away from the location. The officers recognized Suspect No. 7 as the driver of the vehicle and elected to follow the vehicle and conduct a traffic stop/investigation. Employee Nos. 7 and 8 did not advise CD of their new location.

Meanwhile, as the Deputies and Employee Nos. 1, 2, 5 and 6 continued their investigation in the back of the parking lot, several officers heard amplified music and observed a gold colored vehicle parked against the south wall behind the restaurant, approximately 50 to 60 feet away. The officers heard music with the lyrics, "F**k the Police" and identified the gold colored vehicle as the source of the music. Employee No. 3 moved toward the vehicle and observed a male, later identified as Suspect No. 8, seated in the driver's seat with the vehicle door open.

Employee No. 3 directed Suspect No. 8 to lower the car stereo's volume; however, Suspect No. 8 ignored Employee No. 3's commands and increased the volume. Employee No. 3 again directed Suspect No. 8 to lower the car stereo's volume and remove the keys from the ignition and step out of the vehicle. Suspect No. 8 looked back at Employee No. 3 and replied with a derogatory comment.

Employee No. 3 then observed Suspect No. 8 reach down in his vehicle with his right hand toward a plastic bag located on the center console. Believing Suspect No. 8 was possibly attempting to conceal a weapon, Employee No. 3 deployed to the left rear of Suspect No. 8's vehicle for a better view and ordered Suspect No. 8 to place his hands on the steering wheel. Suspect No. 8 stepped out of his vehicle.

Employee No. 3 directed Suspect No. 8 to drop the keys and walk backward to him/her. Suspect No. 8 reluctantly placed the keys onto the driver's seat of his vehicle, clinched his fists and turned toward the south wall. After initially refusing to place his hands on top of his head, Suspect No. 8 complied and was then instructed to interlace his fingers. Suspect No. 8 shook his head and stated, "This is bullsh-t! I shouldn't be doing this! I shouldn't have to do this!" Suspect No. 8 complied with the instructions and stood next to the left rear wheel of his vehicle.

Employee No. 3 then stepped forward between the two vehicles and grasped Suspect No. 8's fingers; however, Suspect No. 8 reacted by pulling his hands apart. Employee No. 3 maintained his/her hold of Suspect No. 8's left wrist as Suspect No. 8 bobbed and twisted his upper body to the left and thrust his left elbow at Employee No. 3's chest and neck. Suspect No. 8 refused to comply with Employee No. 3's commands to stop resisting and place his hands behind his back.

Meanwhile, Employee No. 5, observing Suspect No. 8's actions, responded to assist Employee No. 3. Upon his/her arrival, Employee No. 5 observed Employee No. 3 on Suspect No. 8's left side attempting to control his left arm. Employee No. 5 then grabbed hold of Suspect No. 8's right arm; however, he/she was unable to control him. Believing Suspect No. 8 was reaching for his front waistband or front pocket to possibly arm himself, Employee No. 5 maintained his/her grip on Suspect No. 8's right arm and with his/her left hand, drew his/her flashlight from his/her rear pants pocket.

Employee No. 5 cocked his/her left arm with his/her elbow at shoulder height with the bulb end of the flashlight facing forward to administer a strike to Suspect No. 8's right shoulder to gain compliance. Before Employee No. 5 was able to administer the strike, Suspect No. 8 arched his upper body backward, striking the back of his head on the bulb end of the raised flashlight.

In the interim, Employee No. 1 observed Employees No. 3 and 5 struggling with Suspect No. 8 and Employee No. 5 holding the flashlight in his/her right hand, which appeared to interfere with Employee No. 5's control of Suspect No. 8's arm. Employee No. 1 advised the officers that he/she would take Suspect No. 8's right arm at which time Employee No. 5 stepped back.

As Employee Nos. 1 and 3 maintained control of Suspect No. 8's arms and proceeded to walk him out from between the two vehicles, Suspect No. 8 lost his balance and a struggle ensued. The officers utilized a team takedown and as they reached the ground, Employee No. 3 used body weight to control Suspect No. 8's upper back, Employee No. 5 held onto Suspect No. 8's legs and Employee No. 1 forced Suspect No. 8's hands behind his back in order to handcuff him. Suspect No. 8 was then taken into custody without incident.

As Suspect No. 8 was rolled over into a seated position, Employee No. 1 noted that Suspect No. 8 was bleeding from a laceration to the center of his forehead. Employee No. 1 asked Suspect No. 8 if he wanted a Rescue Ambulance (RA) to respond. Suspect No. 8 replied that a RA unit would not be necessary.

Employee No. 9, a supervisor, responded to the location and observed Employees Nos. 1, 3, and 5 handcuffing Suspect No. 8. Employee No. 5 advised Employee No. 9 of the inadvertent contact between the back of Suspect No. 8's head and his/her flashlight. Employee No. 9 contacted Employee No. 10, also a supervisor, and requested his/her assistance. Employee No. 9 then directed Employee No. 1 to request an RA for Suspect No. 8.

Employee No. 10 arrived at the location and was informed of the incident by Employee No. 9. Employee No. 10 ensured that Employees Nos. 1, 3, and 5 were separated and requested three additional supervisors to respond for transportation and monitoring.

Paramedics arrived at the location and cleaned and bandaged the laceration to Suspect No. 8's forehead. Suspect No. 8 was subsequently transported to the hospital where he received additional medical treatment.

The COP noted that prior to conducting the follow-up to assist LASD personnel, the Employees did not obtain approval from a supervisor. The COP would have preferred that the Employees had advised a supervisor of their intent to conduct a follow-up investigation, especially when this incident involved another law enforcement agency. The COP would have also preferred that Employee Nos. 3 and No. 4 had waited for additional units prior to driving into the parking lot to confront a group of possible gang members and that they had advised CD of their exact location behind the restaurant.

As Employees Nos. 7 and No. 8 arrived at the location, they observed a vehicle leaving the parking lot. The Employees elected to follow the vehicle to conduct a traffic investigation. The

COP would have preferred that Employees Nos. 7 and No. 8 had remained in the parking lot with the other units and focused on the group of possible gang members. In addition, the COP noted that Employee Nos. 7 and No. 8 failed to advise CD of the location of the traffic/investigative stop.

Having identified Suspect No. 8 as the source of the music, Employee No. 3 elected to approach him alone. The COP would have preferred that Employee No. 3 had remained with the other Employees in the parking lot and monitored the suspect's actions pending the completion of the investigation. However, once the decision was made to contact the suspect, the COP would have preferred that Employee No. 3 had requested an additional unit to accompany him/her.

During the struggle, Employee No. 5 believed that the suspect was possibly arming himself. The COP would have preferred that Employee No. 5 communicated his/her observation to the other Employees. Finally, the COP noted that Employee No. 5 was not equipped with his/her baton. Employee No. 5 limited his/her use of force options, which resulted in his/her use of the flashlight when he/she was confronted with an aggressive/combative suspect.

The COP determined that the Employees would benefit from additional training. The COP directed their CO to discuss these issues with the Employees and provide appropriate training.

Suspect No. 8 initially refused to comply with Employee No. 3's commands. Employee No. 3 approached Suspect No. 8 and grasped his fingers; however, Suspect No. 8 reacted by pulling his hands apart. Employee No. 3 maintained his/her hold of Suspect No. 8's left wrist as Suspect No. 8, bobbed and twisted his upper body to the left and thrust his left elbow at Employee No. 3's chest and neck. Suspect No. 8 refused to comply with Employee No. 3's commands to stop resisting and place his hands behind his back.

Employee Nos. 1 and 5 responded and assisted by applying firm grips to Suspect No. 8's right arm. As Employee Nos. 1 and No. 3 maintained control of Suspect No. 8's arms and proceeded to walk him out from between the two vehicles, Suspect No. 8 lost his balance and a struggle ensued. The Employees utilized a team takedown as they reached the ground. As Employee No. 3 used his/her body weight to control Suspect No. 8's upper back, Employee No. 1 used physical force to place Suspect No. 8's hands behind his back for handcuffing, and Employee No. 5 applied physical force to maintain control of Suspect No. 8's legs. Suspect No. 8 was then taken into custody without incident. The COP determined that the non-lethal use of force was reasonable and necessary to take the suspect into custody.

The COP found Employee Nos. 1, 3 and 5's non-lethal use of force in policy, no action.

Employee No. 1 observed Employee No. 5 struggling with Suspect No. 8 and responded to assist him. Upon his/her arrival, Employee No. 5 observed Employee No. 3 on Suspect No. 8's left side attempting to control his left arm. Employee No. 5 then grabbed hold of Suspect No. 8's right arm; however, he/she was unable to control him. Believing Suspect No. 8 was reaching for his front waistband or front pocket to possibly arm himself, Employee No. 5 maintained his/her grip on Suspect No. 8's right arm and with his/her left hand, drew the flashlight from the left rear pant pocket.

Employee No. 5 cocked his/her left arm with his/her elbow at shoulder height with the bulb end of the flashlight facing forward in preparation to administer a strike to Suspect No. 8's right shoulder to gain compliance. Before Employee No. 5 was able to administer the strike, Suspect No. 8 arched his upper body backward, striking his head on the bulb end of the raised flashlight. Due to Suspect No. 8's movements, the back of his head made contact with the flashlight.

The COP determined Employee No. 5's use of the flashlight was appropriate and that the strike to the back of the suspect's head was inadvertent. Accordingly, the COP found Employee No. 5's use of force in policy, no action.

However, the Police Commission found Employee No. 5's use of force to be out of policy, requiring AD.

A complaint investigation regarding Employee No. 5's actions was initiated under CF No. 04-4165. This investigation alleged that Employee No. 5, while on duty, became involved in a Categorical Use of Force resulting in administrative disapproval. The allegation was Sustained, and Employee No. 5 received an Admonishment and training in arrest and control techniques. The OIG believes that the penalty was appropriate for this employee in light of his/her lack of prior similar incidents or disciplinary history.

The Training Evaluation and Management System (TEAMS) report did not accurately reflect the adjudication for Employee No. 5. The TEAMS report indicates that the allegation of Unauthorized Force was adjudicated as Exonerated. Rather, it should have been Sustained. The allegation of Unauthorized Tactics was adjudicated as Sustained, but it should reflect exonerated. We have forwarded this information to TEAMS for their review and appropriate action.

LERI No. 063-04

Employee Nos. 1 and 2, on uniform patrol, drove past a residence where they observed three female suspects in the front yard and five to six male suspects standing in the driveway. The officers recognized Suspect No. 1 and Suspect No. 2 as documented gang members. When the officers stopped their vehicle, they observed Suspect No. 1 walk down the driveway to a wrought iron fence, reach through the bars and discard several small clear plastic baggies containing a green leafy substance into a trashcan. Neither Employee No. 1 nor Employee No. 2 went "Code-6" prior to making contact with the group.

When Employee Nos. 1 and 2 exited their vehicle and approached the group on foot, a member of the group, later identified as Suspect No. 3, walked toward the front door of the residence. When Employee No. 2 observed Suspect No. 3 fidgeting with his waistband and asked him where he was going, Suspect No. 3 said that he had to go inside. Suspect No. 3 then ran toward the front door. When Suspect No. 3 reached the front door, Employee No. 1 observed Suspect No. 3 reach into his waistband and retrieve a six-inch revolver. When Suspect No. 3 ran through the front door, he pushed the resident of the location out of the way and attempted to close the door. Although Employee No. 2 did not see Suspect No. 3 retrieve the revolver from his waistband, Employee No. 2 did see the revolver in Suspect No. 3's hand when Suspect No. 3 turned to close the front door. Neither Employee No. 1 nor Employee No. 2 informed the other of their observations regarding the gun.

Employee No. 1, concerned that Suspect No. 3 could take someone within the residence hostage entered the location with his/her gun drawn. According to Employee No. 2, he/she immediately followed Employee No. 1 into the residence and broadcast a request for help; however, Employee No. 2 did not un-holster his/her weapon during the entirety of the incident. Witness No. 1 indicated that Employee No. 2 did not immediately run into the house with his/her partner and that Employee No. 2 remained outside with four individuals for approximately 90 seconds. Witness No. 2 also indicated that Employee No. 2 did not enter the house until after a noise was heard from inside of the home.

Employee No. 1 pursued Suspect No. 3 through the home and into a laundry room located at the rear of the home. When Suspect No. 3 threw the revolver in the direction of the clothes dryer, it bounced off the dryer and landed in a cat litter box. According to Employee No. 1, Suspect No. 3 tripped or deliberately fell on top of the cat litter box to cover the revolver. As a result, Suspect No. 3 fell against the wall with his legs extended in front of him. Employee No. 1 then went down to his/her knees, straddled Suspect No. 3's torso, holstered his/her firearm and attempted to grab a hold of Suspect No. 3's wrists. When Employee No. 2 entered the laundry room, he/she noticed Employee No. 1 struggling with Suspect No. 3, grabbed Suspect No. 3's legs, and used his body weight to hold Suspect No. 3 down. Employee No. 1 did not advise Employee No. 2 that Suspect No. 3 threw the revolver or that it was located in the cat litter box underneath Suspect No. 3's body.

According to Employee No. 1, he/she was unable to gain control of Suspect No. 3's hands and noted that each time Suspect No. 3 freed his hands, Suspect No. 3 reached underneath his body in an effort to retrieve the revolver. Employee No. 1 also stated that Suspect No. 3 resisted despite his/her repeated commands to do otherwise and that he/she told Employee No. 2 that Suspect No. 3 was attempting to obtain the revolver.

The struggle with Suspect No. 3 left Employee No. 1 physically exhausted. Fearing that Suspect No. 3 would obtain the revolver and kill him/her, Employee No. 1 drew his/her firearm and aimed it at him. Suspect No. 3 then grabbed the barrel of Employee No. 1's firearm and attempted to pull it away from him/her. Employee No. 1 pulled his/her firearm backward, broke Suspect No. 3's grasp of the weapon, and thrust his/her firearm forward, striking Suspect No. 3 in the face. According to Employee No. 1, the head strike had no effect on Suspect No. 3. When Employee No. 1 told his/her partner that Suspect No. 3 was "trying to get this gun," he/she re-holstered his/her service weapon and allowed Employee No. 2 to move forward. Although the Chief of Police Report (COP Report) indicated that Employee No. 2 did not hear Employee No. 1 alert him/her regarding Suspect No. 3's attempt to grab Employee No. 1's firearm, Employee No. 2 informed investigators that he/she heard "something to the effect of, 'he's reaching for a weapon, or reaching for a gun.'"

Employee No. 2 placed a knee on Suspect No. 3's chest, and grabbed Suspect No. 3's right wrist. When Suspect No. 3 attempted to punch Employee No. 2 with the left hand and reached underneath Suspect No. 3's body, Employee No. 2 struck Suspect No. 3 in the face three to five times with a closed fist. Although Suspect No. 3 told the officers that he would cooperate, he continued to reach underneath his body. When Employee No. 2 rolled Suspect No. 3 over in an attempt to allow Employee No. 1 to retrieve the revolver, Suspect No. 3 repositioned his body on

top of the revolver. When Employee No. 2 gained control of Suspect No. 3's wrists, Employee No. 3 and Employee No. 4 entered the residence. Employee No. 1 told these officers that, "The guns in the litter box. Secure that weapon." When Employees No. 1 and Employee No. 2 rolled Suspect No. 3 onto his side, Employee No. 4 recovered the revolver and then gave it to Employee No. 3, who safely unloaded it. When Suspect No. 3 stopped resisting, he was handcuffed without further incident.

After Suspect No. 3's arrest, Employee No. 2 looked into the trashcan just outside of the residence and observed two to three clear plastic baggies that contained a green leafy substance resembling marijuana. Suspect No. 1 was arrested for possession of marijuana for sale.

Employee No. 5, a higher-ranking employee, arrived on scene and observed injuries to Suspect No. 3's face. Employee No. 5 directed an officer to request an RA and directed officers to secure the residence because he/she believed that a Use of Force had occurred. Employee No. 5 then obtained a public safety statement from Employees No. 1 and No. 2 and separated them.

Suspect No. 3 was treated for minor facial lacerations. After medical treatment, Employee No. 6 and Employee No. 7 transported Suspect No. 3 to the police station. While en route to the station, Suspect No. 3 maneuvered his handcuffed hands from behind his back to the front. Upon arriving at the station, Employee No. 6 and Employee No. 7 re-handcuffed Suspect No. 3 with his hands behind his back. Suspect No. 3 then bolted from the officers, fell in the street, jumped up, and continued to run. A short foot pursuit ensued and Suspect No. 3 was apprehended inside a business without incident.

Suspect No. 3 was then treated for the additional injuries he sustained when he fell in the roadway and for a headache and nausea.

The COP determined that Employee No. 1, Employee No. 6, and Employee No. 7's tactics were seriously deficient and required AD. Additionally, the COP determined that Employee No. 2 would benefit from additional training.

In the area of Drawing, Non-Lethal Force and Use of Force, the COP found the actions of Employee No. 1 and Employee No. 2 in policy, requiring no action.

The Commission adopted the recommendations of the COP.

As a result of the AD finding, a related complaint investigation, CF No. 05-1915, was initiated. The investigation resulted in one allegation against Employee No. 1 for Unauthorized Tactics. The allegation was Sustained, and Employee No. 1 received a 22-day penalty. The COP revised the penalty and Employee No. 1 was offered a Settlement Agreement, which reduced the penalty to 15 days.

The original penalty of 22 days was based on the fact that the CO originally counted Employee No. 1's second sustained complaint, which was adjudicated as out-of-statute - no penalty, in determining that Employee No. 1 had three unauthorized tactics sustained complaints. However, Employee No. 1 submitted a *Skelly* response, which indicated that the second sustained

complaint was out-of-statute and should not be counted. Therefore, the present incident would only be his/her second sustained complaint for unauthorized tactics, and not the third.

Accordingly, the OIG believes the revised 15-day penalty was appropriate for Employee No. 1.

VI. Conclusion

The Commission has expressed concern that the Department has never sustained a single allegation of racial profiling while there exists a perception in certain segments of the public that the Department does engage in racial profiling.

We anticipate that the Department's new racial profiling protocols will provide a detailed roadmap for ensuring that racial profiling complaints are properly investigated. However, the true effectiveness of these protocols can only be judged after evaluating future investigations that are conducted under these new protocols. Accordingly, we hope to revisit this issue again after a sufficient number of investigations have been conducted using these protocols.