

LOS ANGELES POLICE COMMISSION

***COMPLAINT INVESTIGATIONS
AUDIT
(Fiscal Year 2006/2007)***



Conducted by

OFFICE OF THE INSPECTOR GENERAL

ANDRÉ BIROTTE, JR.
Inspector General

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TABLE OF CONTENTS

COMPLAINT INVESTIGATIONS AUDIT (FISCAL YEAR 2006/2007)

	PAGE No.
<u>EXECUTIVE SUMMARY</u>	i
<u>PURPOSE</u>	1
<u>SCOPE AND METHODOLGY</u>	1
<u>SUMMARY OF RESULTS</u>	2
<u>DETAILED FINDINGS</u>	3
<u>ADDITIONAL CONCERNS</u>	22
Timelines of TEAMS II Updates for Closed Complaints	22
Chronological Records	22
Rationale for Not Presenting a Complaint Investigation to the District Attorney	22
Audibility of Tape-Recorded Interviews	23
Referrals for Complaints Related to Other Agency Personnel	23
Personal Tape Recordings	23
Interviews of Accused Officers	23
<u>RECOMMENDATIONS</u>	24
Prior Recommendation	24

EXECUTIVE SUMMARY
Office of the Inspector General
Complaint Investigations Audit (Fiscal Year 2006/2007)

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree paragraph 136(ii), completed its Complaint Investigations Audit (Audit). The Audit focused on assessing the following:

- 1) The Adequacy of Investigations;
- 2) The Accuracy and Completeness of Paraphrased Statements; and,
- 3) The Proper Framing of all Significant Allegations.

The Audit is not intended to provide an assessment of Department-wide adherence to mandates specified in the Consent Decree. The Los Angeles Police Department's (Department) Audit Division performs that type of assessment annually. Instead, this Audit provides a global assessment of the above-listed risk areas. In determining whether a particular concern was reportable, the OIG evaluated the totality of circumstances.

AUDIT METHODOLOGY

In an attempt to identify and evaluate higher-risk complaint investigations, the OIG evaluated all complaints investigated by Internal Affairs Group (IAG) that were initiated on or after January 1, 2005, and closed in August 2006. The resulting population included 218 IAG complaint investigations. From this population, the OIG excluded 88 complaint investigations with only lower-risk allegations (e.g., "unbecoming conduct," "neglect of duty," "other policy/rule," "improper remark" and "discourtesy"). A total of 130 investigations remained that had one or more allegations the OIG deemed to be of higher-risk (e.g., "unauthorized force," "racial profiling," "theft," "unlawful search," "domestic violence," "dishonesty," etc.) Then the OIG selected a random sample of 56 investigations. Due to the sheer volume of tape-recorded statements of complainant, accused employee, and witness interviews, the OIG elected to only listen to the tape-recorded interviews of the complainants to assess the accuracy and completeness of the applicable paraphrased statements. The OIG assessed the interviews of 44 complainants (found on 47 tapes).

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SUMMARY OF RESULTS

Of the 56 IAG complaint investigations assessed, the OIG determined:¹

- 1) Twelve investigations had a significant concern related to the adequacy of the investigation, meaning that there was a significant investigative step or inconsistency related to one or more framed allegations that should have been addressed by the investigation.
- 2) Eleven investigations had a paraphrased statement that was either incomplete or inaccurately depicted significant information stated in the tape-recorded interview of a complainant and/or witness.²
- 3) Fourteen investigations had one or more significant allegations not framed or adjudicated.

In conducting the Audit, the OIG also identified concerns that did not necessarily relate to a particular complaint investigation or the adequacy of an investigation. Those concerns are presented in the Additional Concerns section of this report.

On December 26th, 2006, the OIG met with the Commanding Officer of IAG, the Officer-In-Charge of IAG Review and Evaluation Section, and other supervisors assigned to IAG. The Audit's findings were discussed and, at that time, IAG indicated general agreement with the findings presented in this report.

¹ Some investigations had more than one concern.

² As previously stated, due to the limited resources, the OIG could not listen to all tape-recorded interviews for each investigation. As such, the OIG compared the tape-recorded interviews of the complainants in each investigation to their paraphrased statements. At times, the OIG listened to the tape-recorded interviews of witnesses if additional clarification was needed.

**OFFICE OF THE INSPECTOR GENERAL
FISCAL YEAR 2006/2007
COMPLAINT INVESTIGATIONS AUDIT**

PURPOSE

The Office of the Inspector General (OIG), pursuant to Consent Decree Paragraph 136(ii), completed its Complaint Investigations Audit (Audit).¹ Paragraph 136(ii) requires the OIG to conduct a regular, periodic review of complaint investigations. The Paragraph further requires the Audit to assess areas of concern identified by the Inspector General and at least one area related to the quality and/or outcome of the investigations. This Audit focused on assessing:

- 1) The Adequacy of the Investigation;
- 2) The Accuracy and Completeness of Paraphrased Statements; and,
- 3) The Proper Framing of all Significant Allegations.

The adequacy of investigations and the completeness and accuracy of paraphrased statements (summaries of tape-recorded interviews) are important components to the complaint investigation process as they can impact the Commanding Officer's adjudication of allegations made by complainants. Additionally, if a particular allegation is not framed in an investigation, the allegation will never receive a final adjudication (e.g., "unfounded," "exonerated," "not resolved," "insufficient evidence to adjudicate" or "sustained") by a Commanding Officer and the allegation will not be reflected on the accused officer's Training Evaluation and Management System (TEAMS) II record.² As such, the OIG believes these are high-risk areas and thus, the focus of this Audit.

This Audit is not intended to provide an assessment of Department-wide adherence to mandates specified in the Consent Decree. The Los Angeles Police Department's (LAPD or Department) Audit Division performs that type of assessment annually. Instead, this Audit provides a global assessment of the above-listed risk areas. In determining whether a particular concern was reportable, the OIG evaluated the totality of the circumstances.³ In some instances, other noteworthy concerns were identified that did not necessarily fit into the above-mentioned Audit objectives. Those concerns were also reported.

SCOPE AND METHODOLOGY

In an attempt to identify and evaluate higher-risk complaint investigations, the OIG evaluated all complaints investigated by Internal Affairs Group (IAG) that were initiated on or after January 1, 2005, and closed in August 2006.⁴ Three complaint investigations that alleged retaliation were separated from the population and reviewed but no significant concerns were noted with those investigations.⁵ The resulting population included 218 IAG complaint investigations. From this population, the OIG excluded 88 complaint investigations with only

¹ In 2005, this Paragraph was amended to allow the OIG the flexibility to determine the manner to best review complaint investigations, which serves to enhance the oversight and role of the OIG and to maximize its resources.

² An officer's TEAMS II record tracks his/her complaint history and the adjudication for each framed allegation.

³ For example, the OIG considered an investigation to have an "adequacy of investigation" concern if a deficiency could be significant enough to call into question the final adjudication of one or more allegations.

⁴ Lower-risk complainants such as "failure to appear," "failure to qualify," and "preventable traffic collision" are generally not investigated by IAG.

⁵ As these investigations are typically complex, the OIG elected to review all three for any significant concerns.

allegations of a lower-risk nature (e.g., “unbecoming conduct,” “neglect of duty,” “other policy/rule,” “improper remark” and “discourtesy”).⁶ A total of 130 investigations remained that had one or more allegations the OIG deemed to be of a higher-risk nature (e.g., “unauthorized force,” “racial profiling,” “theft,” “unlawful search,” “domestic violence,” “dishonesty,” etc.). From this population, the OIG selected a random sample of 56 investigations.⁷ Due to the sheer volume of tape-recorded statements of complainant, accused employee, and witness interviews, the OIG elected to only listen to the tape-recorded interviews of the complainants to assess the accuracy and completeness of the applicable paraphrased statements. The OIG assessed the interviews of 44 complainants (found on 47 tapes).⁸ At times, an auditor listened to additional tapes to clarify information included in other paraphrased statements. Any significant omissions and/or inconsistencies identified with those paraphrased statements were also reported.

A detailed matrix was used to evaluate the investigations (in addition to the matrix utilized to assess paraphrased statements of complainant tape-recorded interviews) for significant concerns related to investigation inadequacies and additional allegations that were not framed by the investigation. Less significant issues identified in this Audit were separately reported to IAG management and not included in this report.

When auditing complaint investigations, the most difficult component to assess is the adjudication of allegations.⁹ Because the Department uses a “preponderance of evidence” standard, there is subjectivity used when weighing evidence found in each investigative file. When the OIG identified a complaint investigation that had one or more allegation adjudications that appeared unreasonable, those concerns were also reported.

SUMMARY OF RESULTS

Of the 56 IAG complaint investigations assessed, the OIG determined:¹⁰

- 1) Twelve investigations had a significant concern related to the adequacy of the investigation, meaning that there was a significant investigative step or inconsistency related to one or more framed allegations that should have been addressed by the investigation.

⁶ The OIG randomly selected 13 of these investigations and found two had an allegation of “theft” by an unknown officer that appeared to be improperly classified as “unbecoming conduct.” Both allegations were appropriately adjudicated as “unfounded.” However, it is important to note that these investigations and possibly others that had misclassified allegations were excluded from our sampling population. These two investigations were brought to the attention of IAG management for re-classification.

⁷ The sample was based on a one-tail sample size calculation with a 95 percent confidence level, an expected error rate of six percent, and a plus precision of four percent. A total of 12 investigations were replaced (five investigations revealed that the allegation involved an employee from another entity (other than LAPD), three investigations resulted from a “complaint intake audit” (thus the allegations were fictitious) conducted by IAG’s Ethics Enforcement Section, and four investigations resulted from an incident back in 2004, which did not meet the criteria established for the Audit).

⁸ A detailed matrix was utilized to assess the paraphrased statements of complainant interviews.

⁹ Significant investigation inadequacies, and incomplete and inaccurate paraphrased statements could also call into question the adjudication of certain allegations.

¹⁰ Some investigations had more than one concern.

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- 2) Eleven investigations had a paraphrased statement that was either incomplete or inaccurately depicted significant information stated in the tape-recorded interview of a complainant and/or witness.¹¹
- 3) Fourteen investigations had one or more significant allegations not framed or adjudicated.¹²

In conducting the Audit, the OIG also identified concerns that did not necessarily relate to a particular complaint investigation or the adequacy of an investigation. Those concerns are presented in the Additional Concerns section of this report.

On December 26, 2006, the OIG met with the Commanding Officer of IAG, the Officer-in-Charge of IAG Review and Evaluation Section, and other supervisors assigned to IAG. The Audit's findings were discussed and at that time, IAG indicated general agreement with most of the findings presented in this report.

DETAILED FINDINGS

05-1924

This complaint resulted from an incident in which the accused officers detained the complainant for a murder investigation. The complainant alleged that he was thrown to the ground while handcuffed for no reason, causing injury to his face. The accused officers determined the complainant was not a suspect and he was subsequently released. This complaint involved one allegation of "unauthorized force" against one officer and two allegations of "neglect of duty" (failure to provide medical services for the complainant's injury) against the one officer and his partner. Finally, there was one allegation of "neglect of duty" (failure to report misconduct) against an off-duty civilian employee (the mother of the complainant's girlfriend). All allegations were adjudicated as "not resolved," except for the failure to report misconduct allegation that was adjudicated as "non-disciplinary."

¹¹ As previously stated, due to the limited resources, the OIG could not listen to all tape-recorded interviews for each investigation. As such, the OIG compared the tape-recorded interviews of the complainants in each investigation to their paraphrased statements. At times, the OIG listened to the tape-recorded interviews of witnesses if additional clarification was needed.

¹² This figure did not include additional investigations that contained unframed allegations. Because there were mitigating factors in comparison to the other allegations and/or based on the investigation it was likely that the unframed allegation would have been adjudicated as "unfounded," "exonerated," or "insufficient evidence to adjudicate"), these findings were separately reported to IAG management.

The following concerns were identified based on a review of this investigation:

Paraphrased Statements

On tape, the complainant and his girlfriend made statements pertinent to the investigation that were not included in their paraphrased statements, as follows:

- The complainant stated he has two scars on his face as a result of an officer taking him down to the ground after he was handcuffed. On tape, the investigators acknowledged the scars the complainant was pointing to on his face, yet pictures of them were not included in the investigative file. The complainant also indicated that the main reason he and his girlfriend were upset was that they heard the officers were looking for a “male/black” with a beanie. Yet, the complainant and his girlfriend were on their way back from church and he was in a suit and she was in a blazer jacket. The complainant indicated they were in a similar vehicle the officers were looking for but their vehicle was newer (by four years) and it was burgundy, instead of black. Additionally, the complainant indicated he was detained for 20 minutes, put in the backseat of the police vehicle, and asked the officers to let him go as they did not have “anything on him.” Finally, the complainant indicated that he thought the officers were racial profiling, especially since the officers did not question his girlfriend (who would also be a suspect since she was with him).
- The complainant’s girlfriend questioned why the officers stopped them and handcuffed her boyfriend because she owned a vehicle of a different year and color compared to the vehicle that officers were looking for. Moreover, the officers were looking for two males.

Adequacy of the Investigation

Several concerns were noted with the adequacy of this investigation. First, photographs were not taken of the complainant’s injury (as stated above, the investigators were heard commenting on the injury during the complainant’s tape-recorded interview). Additionally, in the second interview of the complainant’s girlfriend, the investigator asked her if she had anything else to say (apparently in regards to reporting misconduct) and the complainant’s girlfriend began to say “when the police pulled up...”, then the investigator interrupted her and asked her to confirm that her boyfriend did not seek medical treatment and terminated the interview by stating he can answer any other questions she had off-tape. Also, the investigative file indicated that the complainant’s mother had difficulty initiating the complaint (for at least two weeks) possibly due to the watch commander being off sick. Given the delay, the investigator should have asked follow-up questions of the complainant’s mother to find out if any other supervisors offered to take the complaint as required. Finally, given the original broadcast [describing the two suspects] was pertinent to assessing this investigation, it should have been obtained and included as an addendum item.

Unframed Allegations

As noted above, there were additional allegations stated in the tape-recorded interview of the complainant related to allegations of “racial profiling” and “false imprisonment.” These allegations should have been framed.

05-0782

This complaint resulted from an incident in which undercover officers detained the complainant because they indicated they observed her purchasing drugs. The complainant was brought to the police station and strip searched. However, no drugs were found and the complainant was subsequently released. The complainant alleged that unknown officers illegally detained her, transported her to a police station, illegally searched her, took nude photos of her and used excessive force in the police station. The complainant did not participate in the investigation per her attorney’s advice. The Department framed seven allegations against four officers and one allegation against multiple officers. The allegations, as classified, included “false imprisonment,” “unauthorized force,” “unlawful search,” and “unbecoming conduct” (relating to the officers’ conduct during the strip search). All allegations were adjudicated as “unfounded,” except for the four “false imprisonment” allegations adjudicated as “exonerated.”

The following concerns were identified based on a review of this investigation:

Adequacy of the Investigation

There was no evidence that the area of the stop or the police station were canvassed for independent witnesses. Given the high-risk nature of the allegations and the lack of cooperation by the complainant, the OIG believes these efforts should have been made.

Unframed Allegation

The complainant’s claim for damages (a lawsuit against the City of Los Angeles) included an additional allegation that was not framed in the investigation. Specifically, the claim indicated that the female searching officer made an improper remark when the strip search was conducted.

05-5418

This complaint resulted from an incident in which the complainant, his sister, and brother-in-law were detained outside of their grandmother’s home due to a radio call of a “man with a gun.” The person reporting stated there was a male black with a gun. Officers responded to the general area and detained the three individuals after being instructed to do so by an air unit. The Department framed twelve allegations against five identified officers and one unidentified officer. The allegations involved various counts of “false imprisonment,” “unauthorized tactics” (unnecessarily pointing a firearm at the complainant and handcuffing the complainant) and “discourtesy.” All the allegations were adjudicated as either “unfounded” or “exonerated,” except for the two “discourtesy” allegations that were adjudicated as “not resolved.”

The following concerns were identified based on a review of this investigation:

Paraphrased Statements

On tape, the complainant and his sister made statements that were pertinent to the investigation but they were not paraphrased. For example:

- The complainant also stated that the officers pointed their weapons at his girlfriend, and the officers searched the trunk, glove compartment and inside the vehicle.
- The complainant and his sister stated that the sister's handcuffs were tight and because she has poor circulation, her arms were numb for at least three days.
- The complainant and his sister questioned why they were stopped, as they were middle aged, merely looking at a photograph album, and at their grandmother's home. Additionally, the sister stated that they had paint all over them and the officers should have been able to ascertain that they were painting her grandmother's home.
- The complainant and his sister questioned the length of the detention as well as why they were still handcuffed for at least 15 minutes after they and the vehicle were searched and no weapon was found.
- The complainant's sister stated that she believes the officers' saw "three black people and decided to roll up on them."

On tape, the complainant's girlfriend, who was a witness to the incident, stated that the officers' entire attitude changed when they found out where her and her boyfriend worked.¹³ However, this information was not included in her paraphrased statement.

Adequacy of the Investigation

The investigation did not clearly document that the air unit, not the person reporting, provided the detailed descriptions of the three suspects. The anonymous person reporting called "911" and stated that there was a male black with a gun. No further information was obtained. The air unit instructed the arriving units to detain the complainant, his sister, and his brother-in-law. However, as these facts were not clear in the investigation, the Commanding Officer's rationale to adjudicate the allegations was erroneous. Specifically, the rationale indicated that the officers were responding to a "415 man with gun call and the suspect fit the description." Yet, as indicated above, the person reporting never gave a description. Additionally, the OIG noted that the investigator did not ask a few follow-up questions when it appeared necessary.¹⁴

¹³ She indicated she worked for an elected official.

¹⁴ For example, the complainant stated that his sister's handcuffs caused her arms to be numb for three days but the investigator did not ask if anyone requested the officers to loosen the handcuffs.

Unframed Allegations

For this complaint, there were several unframed allegations, as follows:

- Allegations of unnecessarily detaining and pointing weapons at the complainant's sister and brother-in-law should have also been framed.
- Allegations of an "illegal search" of the sister's vehicle and the subjects should have also been framed.
- Allegations of "false imprisonment" should have been framed for the air unit as they directed the arriving officers to detain the three subjects based on the anonymous call with only a limited description (i.e., male/black/with gun). "False Imprisonment" allegations were only framed for the arriving officers.
- Allegations of "racial profiling" should have been framed as the complainant's sister indicated she believed they were unnecessarily stopped because of their race.
- Allegations of an unnecessarily long detention should have also been framed.

05-3582

This complaint resulted from an incident in which the accused officers entered a home due to a possible domestic violence incident involving a handgun. The officers used non-categorical uses of force against the complainant and her boyfriend at the home of the complainant's mother. The complainant was detained for a possible outstanding misdemeanor warrant (which was resolved and she was released) and her boyfriend was arrested for possession of an unregistered handgun which he tried to hide when the officers arrived. The Department framed 14 allegations against two officers. The allegations included "unauthorized force," "unauthorized tactics," "unlawful search," "false imprisonment," "unbecoming conduct" (unnecessarily entered the home of the complainant's mother), "neglect of duty" (failure to properly maintain control of the complainant's property) and "discourtesy." All 14 allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Paraphrased Statements

On tape, the complainant, her boyfriend and her mother made the following statements that were pertinent to the investigation but they were not paraphrased.

- The complainant's boyfriend stated that he was told to "shut up" by the accused officers. The omission of this statement was significant because it caused the Commanding Officer to unnecessarily question the credibility of the complainant. Specifically, the Commanding Officer's rationale to adjudicate the allegations indicated that since no one else heard the officers' say, "shut up," the investigation "has cast a shadow on the credibility of the complainant." The complainant's boyfriend also stated that he did not try to walk past the officers, was not resisting and questioned why the force was

necessary, but his paraphrased statement indicated that he did walk past the officers (disobeying their orders). Although all statements are not audible in the boyfriend's tape-recorded interview, this information should have also been paraphrased. Additionally, the complainant's boyfriend indicated that his cousin was at the location and as such, may have been a witness. Finally, the complainant's boyfriend stated that he felt a particular officer was racist because of the way he was treated.

- Both the complainant and her mother indicated that there were several officers at the scene when the alleged acts occurred, but this information was not paraphrased.
- The complainant's paraphrased statement indicated the officer placed his knee on her shoulders and back of her neck; however, in her tape-recorded interview and her written complaint of misconduct form, she actually alleged the officer put his foot on the back of her neck and applied pressure.

Adequacy of the Investigation

The complainant's mother indicated there were neighborhood witnesses to the use of force on the porch and although the investigative file indicated that a canvassing took place when the use of force investigation was conducted, no witnesses were located.¹⁵ For the IAG investigation, the investigative file indicated that "due to the fact that this alleged incident occurred inside the residence, [the IAG investigator] did not canvass the scene." But, the use of force incident occurred on the front porch. Given that there were no witnesses identified in the use of force investigation, the OIG believes the IAG investigator should have attempted to re-canvass. Additionally, the investigative file should have contained a Communications Division printout of the incident to identify the police units that were present as the complainant and her mother indicated there were several officers at the scene when the alleged acts occurred. Although there is an investigator's note that indicates additional officers arrived after the uses of force, there is no indication as to which officers the investigator spoke with to confirm there were no additional officers who witnessed the alleged incident. Finally, the tape-recorded interviews conducted by the Area supervisor in the non-categorical use of force investigation were very difficult to hear and the IAG investigator did not attempt to re-address the complainant's allegations during a re-interview or attempt to re-interview the complainant's mother. This made it difficult to know whether all allegations were identified and all information pertinent to evaluating the alleged acts was obtained.

Unframed Allegations

The complainant, her mother, and her boyfriend all stated that an officer unnecessarily pushed the complainant's mother out of the home. Additionally, the complainant's boyfriend alleged that one officer was racist. However, these additional allegations were not framed.

¹⁵ An Area supervisor completes a non-categorical use of force investigation.

Other Concerns

The complainant alleged that an officer put his foot on the back of her neck and applied pressure. Although the Area supervisor who conducted the use of force investigation took various photographs of the complainant, no photographs were taken of this specific area. Also, during the non-categorical use of force investigation, most of these allegations were made, yet, a complaint was not initiated until a month later when the complainant and her mother sent Complaint of Misconduct Forms to IAG. This again raises the concern of how complaints of misconduct are dealt with in non-categorical use of force investigations.¹⁶ The OIG anticipates that this area will be reviewed again in the OIG's next non-categorical use of force investigations audit scheduled for completion in March 2007.

05-5389

This complaint resulted from an incident in which the complainant was arrested for felony vandalism. However, before the complainant was arrested, he fled from the undercover officers. When he stopped running and was on the ground, the complainant alleged that an officer's foot struck his nose. The Department framed an "unauthorized force" allegation against one officer and a "discourtesy" allegation against another officer. Both allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Paraphrased Statements

On tape, the complainant and his mother made the following statements that were pertinent to the investigation but the information was not included in their paraphrased statements.

- On tape, the complainant's mother stated that her son told her that an officer said he was going to "kick [her son's] ass." The significance of this statement relates to the Commanding Officer's rationale in adjudicating the allegations. Specifically, the Commanding Officer found that the complainant's discourtesy allegation was "self-serving" and adjudicated the allegation as "unfounded" stating that "it is reasonable to conclude that [the complainant] would have, at least, told his mother about the comment had it actually been said."
- On tape, the complainant stated that the officers were rough with him during the handcuffing process and when he told one officer his nose hurt, the officers stated "what do you want me to do about it, scratch it?"
- On tape, the complainant's mother indicated that the reason she believed the officer kicked her son's nose on purpose was because when she called the officer to ask why he kicked her son's nose, the officer said he was too nice because he could have written another charge against her son.

¹⁶ The OIG reported on this concern in its annual Non-Categorical Use of Force Investigations Audit completed in March 2006.

Additionally, the complainant's paraphrased statement also contained a significant inaccuracy. Specifically, his paraphrased statement indicated that the complainant "believed the kick might have been accidental because it had been raining earlier and the ground was wet." Yet, on tape, the complainant stated that the ground was not wet where he went to the ground because of an "overhang" above the sidewalk. Additionally, on tape, the complainant stated that the officer stated that if he kicked the complainant's nose, "it was not done on purpose."

Unframed Allegation

As mentioned above, an additional act of discourtesy was alleged during the tape-recorded interview of the complainant, but since it was not paraphrased, the allegation was not framed.

Other Concerns

Part of the Commanding Officer's rationale used to support the "unfounded" adjudication indicates that the complainant did not have a visible injury; but the photographs in the investigative file show that the complainant's nose was swollen on the right side, which seems to support the complainant's statement. Additionally, the original complaint facesheet completed by an Area supervisor did not include the additional allegation that an officer threatened to "kick" the complainant's "ass." Again, the Commanding Officer, in his rationale to adjudicate the allegations, questioned the complainant's credibility because of this omitted allegation. Specifically, the Commanding Officer erroneously questioned why the complainant did not complain to a supervisor in his first interview that a threat was made by the accused officer.

05-0681

This complaint was the result of an off-duty domestic violence incident outside the City of Los Angeles. The complaint involved seven allegations. All seven allegations were adjudicated as "sustained" and the officer received a twelve-day penalty after his Board of Rights hearing. The criminal case against the officer was dismissed.

The following concerns were identified based on a review of this investigation:

Paraphrased Statement

On tape, the complainant stated that in the past, the accused officer had squeezed her face in an aggressive manner and three or four times had twisted her arms behind her back in an aggressive manner during arguments. This information was not paraphrased. Additionally, the contents of the entire second interview of the complainant were not paraphrased in the investigation. That interview included pertinent information (e.g., the complainant obtaining an emergency protective order, a suicide note written by the accused officer, and an incident that took place at the complainant's workplace in which the accused officer blocked her truck from leaving the parking lot until she kissed him on the mouth).

Unframed Allegations

An allegation of attempting to harm the complainant's unborn baby should have been framed as an additional allegation. Specifically, a witness' paraphrased statement indicated that the complainant had previously stated that the accused officer was upset because the complainant was pregnant and the accused officer did not want the baby. The statement further indicated that the complainant stated that the accused officer jumped on and punched the complainant several times in the stomach to try to induce an abortion. Another witness stated that during the same time period, the complainant went to his house and told him that the accused officer pushed her to the ground and pulled her hair. The witness stated that the complainant was concerned because she was pregnant and apparently the accused officer wanted her to have an abortion. As such, the OIG believes the investigation should have addressed whether the accused officer was attempting to harm the unborn child. At a minimum, the investigator should have asked the complainant about this concern during the interview with her and there was no information in this regard in the investigative file. Additionally, as noted above, there were additional domestic violence incidents mentioned in the complainant's tape-recorded interview that were not paraphrased. These allegations should have also been framed.

06-0394

This complaint resulted from an incident in which a perimeter was established for an investigation involving an assault with a deadly weapon ("shots fired"). Three individuals (the co-complainants) were detained outside of the established perimeter. A Department supervisor at scene indicated he instructed the accused officers to detain the co-complainants because the victims stated that they could possibly be the suspects. The complainants alleged that they were detained and handcuffed for nearly one hour in front of their residence without proper justification. The Department framed eight allegations against two officers. The allegations included various counts of "false imprisonment" and "neglect of duty" (officers failed to take action after learning that a child was home alone). The eight allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Paraphrased Statements

On tape, two complainants made the following statements that were pertinent to the investigation but the information was not included in their paraphrased statements:

- A 77-year-old co-complainant who was detained during this incident stated that the officers did not provide a reason for handcuffing him and the officers, when asked, told him that he could not sit down. He stated he was cooperative with the officers and questioned why he and the co-complainants were handcuffed another 45 minutes after the officers ran them for warrants and warrants. Additionally, his paraphrased statement indicated that he never told the officers he was sick, but in his tape-recorded interview, he stated he did and that his daughter told the officers that he needed medication.

- Another co-complainant questioned why the officers detained them because the officers knew the suspect's "street" name and went straight to the suspect's house (indicating that the officers already had an established perimeter that he was not in). He also questioned why he and the co-complainants were detained so long, given the officers had already checked their identification. Finally, this co-complainant stated that the officers knew he was not the suspect because they saw him pull his vehicle up to his residence and walk his daughter into his house.

Adequacy of the Investigation

The investigation did not attempt to interview two pertinent witnesses. Specifically, as stated above, the three co-complainants were detained outside a perimeter that was set up around a house into which the suspect of a shooting ran. The victims had already provided the suspect's description and "street" name. The accused officers indicated they detained the co-complainants after being told to do so by a supervisor. The supervisor indicated that he received information that the victims of the shooting believed the three males (the co-complainants) standing east of the command post were involved in the shooting. This is the only statement used to support the detention of these co-complainants. As such, the OIG believes that the investigation should have attempted to interview the victims to confirm this information, but the investigation does not indicate that this investigative step took place.

Additionally, a supervisor who arrived near the end of the detention of the three co-complainants was interviewed as part of this investigation. However, an addendum in the investigation contains his Sergeant's Daily Report for the day of the incident and it does not indicate that he was present at this incident. In fact, the report indicates the supervisor started his work shift approximately three hours after the incident. Given this inconsistency, the investigation should have attempted to resolve this matter.

05-3662

This complaint resulted from an incident in which the complainant was stopped by the accused officers for driving a vehicle that did not have a license plate and not wearing his seat belt. A non-categorical use of force occurred and the complainant was arrested for Penal Code 148(A) – resisting a peace officer. The Department framed seven allegations against two officers. The allegations included "unauthorized force," "unbecoming conduct" (challenging the complainant to a fight), "neglect of duty" (failure to return the complainant's drivers license), and "discourtesy." All the allegations were adjudicated as "unfounded," except for the two "unauthorized force" allegations adjudicated as "exonerated."

The following concern was identified based on a review of this investigation:

Unframed Allegation

Several witnesses also stated that an officer hit the complainant in the head with a flashlight; however, the complainant did not make this allegation in his tape-recorded interview. Given the significant allegation (an intentional head-strike), the investigator should have also framed an allegation and addressed this concern with the complainant.

05-4077

This complaint resulted from an incident in which the complainant was arrested for driving under the influence. The complainant stated that he became upset and combative when he was arrested, and he told the officers that he was on parole and did not want to back to prison. The complainant believed that an officer struck him causing an injury to his head, but the investigation attributed the complainant's injury to the complainant hitting his head (self-inflicted) on the rail of the top bunk bed in his holding cell. The Department framed two allegations of "unauthorized force" and one allegation of "discourtesy" against an officer, with all three allegations adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Paraphrased Statement

On tape, the complainant indicated that his friend was a passenger in his vehicle who was pretending to be asleep so that the officers would let him go (indicating there was a possible witness).¹⁷ The complainant provided the friend's name, telephone number and the possible street that the friend lived on. Although this friend would not have been present when the alleged unauthorized force occurred, the friend would have been present to witness the alleged demeanor of the accused officer prior to the complainant's arrest. However, this information was not in the complainant's paraphrased statement and there was no evidence in the investigative file that attempts were made to contact this individual.

Adequacy of the Investigation

The investigation did not include the tape number of a personal audio recording by the accused officer. This tape recording was mentioned in the complaint facesheet. But, based on a follow-up discussion with the IAG investigator, the investigator did not see the reference to the tape on the facesheet and, as such, this evidence was not obtained or included in the investigative file.¹⁸

Additionally, there was an inconsistency that was not adequately addressed by the investigation. Specifically, the Arrest Report indicated that while in the holding cell, as the accused officer and four other officers were assisting the complainant, the complainant struck the back of his head on the rail of the top bunk bed causing a self-inflicted injury/laceration to his head. However, a jail watch commander's log indicated that as soon as the complainant was left in the holding cell, a jailer saw the complainant bang his head on the glass window of the cell and he was immediately taken to the dispensary. This jailer was interviewed but did not recall the incident. Given this inconsistency, the OIG believes that the investigation should have attempted to interview the three officers that assisted the complainant when he struck his head on the bunk bed.¹⁹ However, it should be noted that the

¹⁷ The facesheet of the Arrest Report indicates the vehicle the complainant was driving had a passenger.

¹⁸ Part of the Commanding Officer's rationale to adjudicate the allegations as "unfounded" was that the tape recording demonstrated the complainant's "belligerent remarks" and "threats" toward the officers.

¹⁹ The investigation does indicate that the investigator attempted to interview the fourth officer (the accused officer's partner), but that officer resigned from the Department and did not return the investigator's telephone calls.

complainant was “in and out” of consciousness during this timeframe due to the alcohol and prescription medication that he had consumed. The complainant was unclear how his head was injured in the holding cell.

Finally, on tape, the complainant made a reference to a photograph and stated “in that picture right there, that is how I woke up.” According to IAG, the complainant was referring to his booking photograph. As the investigative file did not contain any photographs of the complainant’s injuries, it would have been helpful to include the photograph that the complainant made reference to.

05-4514

This complaint resulted from an incident in which the accused officers responded to a radio call involving an altercation between the complainant, and her ex-boyfriend and his current girlfriend. The two parties disputed who was the significant aggressor in the altercation. The complainant was subsequently arrested for a misdemeanor warrant. The complainant subsequently made several allegations against the two arresting officers. The Department framed six allegations against the two officers. The allegations included “neglect of duty” (failed to take action after being informed that a crime had occurred), “unauthorized force,” and “discourtesy.” The allegations were adjudicated as “unfounded.”

The following concern was identified based on a review of this investigation:

Adequacy of the Investigation

This investigation did not include photographs of the complainant’s injuries. Specifically, the complainant alleged that officers slammed her car door against her leg and knee. It is clear from the tape-recorded interview that the complainant was showing bruises on her leg to the investigating officers. At the end of the complainant’s tape-recorded interview, the investigators asked the complainant if they could take photographs of her injuries, and she said, “Yes.” Yet, there were no photographs in the investigative file.

05-4611

This complaint resulted from an incident in which the complainant was stopped in a high-narcotics area during the early morning hours. The complainant stated that he was the only Caucasian in the area at the time of the stop and that he had been stopped in this area numerous times before. The Department framed two allegations of “racial profiling” against two officers. Both allegations were adjudicated as “unfounded.”

The following concerns were identified based on a review of this investigation:

Paraphrased Statement

On tape, the complainant alleged that five times in the previous week, officers stopped him while he was walking home from work. However, this information was not included in his paraphrased statement.

Adequacy of the Investigation

The investigator did not attempt to interview the complainant to obtain additional details regarding his complaint.²⁰ Specifically, the investigator should have attempted to contact the complainant to determine the nature of the alleged search and encounter (the associated documents completed by the accused officers indicated the search of the complainant and the encounter was consensual). Additionally, the complainant should have been asked additional details about the other stops he mentioned in his tape-recorded conversation with Communications Division.²¹ Finally, the investigative file did not contain the Field Data Report completed by the accused officers for the incident or the Communication Division printout that captures radio transmissions for this incident.

Unframed Allegation

The complainant alleged that he was unnecessarily stopped on multiple days, not just the one time. However, this additional allegation was not framed.

05-6154

This complaint resulted from an incident in which the complainant was stopped for a vehicle code violation and did not have her driver's license. The complainant alleged that the officer was discourteous towards her and grabbed her arm and attempted to pull her out of her vehicle. The Department framed one "unauthorized force" allegation and three "discourtesy" allegations against one officer. All four allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Paraphrased Statement

Only the complainant's first interview was paraphrased, but she provided additional pertinent information in her second tape-recorded interview. Specifically, in that interview, the complainant indicated that the responding supervisor was trying to dissuade her from making a complaint. The complainant also indicated that the accused officer opened her vehicle's door and pushed it so hard that the door bounced back on the officer and caused the complainant to panic as she was pregnant. The complainant indicated that because of his conduct, she was afraid of the officer.

Unframed Allegation

An additional allegation ("dissuasion") should have been framed as the complainant alleged that the supervisor who responded to the scene of the traffic stop attempted to dissuade her from making a complaint. Although the investigator attributed this behavior to the supervisor attempting to perform an Alternate Complaint Resolution (ACR) for the complaint, this type of complaint, as it involved an "unauthorized force" allegation, was not

²⁰ There was no evidence (on the Chronological Record or in the investigator's notes) that the investigator attempted to contact the complainant at the telephone number listed on the complaint facesheet.

²¹ It was also noted that the investigative file did not contain documentation to indicate whether the complainant was notified of the final disposition of this complaint investigation.

eligible for the ACR process due to its higher-risk nature. Therefore, the OIG believes an allegation should have been framed and investigated.

05-4161

This complaint resulted from an incident in which the complainant had been stopped and warned because her vehicle had illegal window obstructions. She was additionally cited for not having a driver's license (which complainant admitted to) or insurance. As a result, her vehicle was impounded. The complainant indicated that she was stopped for no reason and the accused officers offered to not impound her vehicle for information on her boyfriend's possible criminal activity. The Department framed two allegations of "false imprisonment" against two officers. Both allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Paraphrased Statement

On tape, the complainant stated that she asked one of the accused officers why she was stopped and he stated, "I can do anything I want." The complainant also stated that she had car insurance at the time of the incident but she was cited for having no insurance.²²

Additionally, the complainant stated that an accused officer told her to "shut up and turn around." Finally, the complainant stated that after the incident, every time she saw the two officers on the street, they would follow her. These statements were all pertinent to the investigation but not included in the complainant's paraphrased statement.

Adequacy of the Investigation

This investigation never addressed the "false imprisonment" allegation. Although the accused officers indicated that they conducted the traffic stop for an illegal window obstruction on the complainant's vehicle and documented this on her citation, the complainant's paraphrased statement does not indicate whether the investigator confirmed that there was an illegal window obstruction with the complainant. Additionally, the investigation did not indicate the disposition of the citation or include the Vehicle Impound Report. Finally, when the complainant stated that after the alleged incident, the two officers had followed her when they saw her on the "street," the investigator did not ask any follow-up questions and instead indicated that he was only interested in the incident in question (referring to the original traffic stop).

Unframed Allegations

Based on the complainant's tape-recorded interview, there were additional allegations regarding "discourtesy" and "on-going" harassment. These allegations were not framed.

06-0393

This complaint resulted from an incident in which the complainant and his mother alleged that the accused officer detained the complainant without cause. The complainant had recently been cited for "speeding" and driving with a suspended license. In addition, the mother also alleged

²² The complainant indicated that the accused officers did not appear in traffic court and her citation was dismissed.

that her nephew was also being harassed by one of the accused officers. This complaint involved five allegations against two officers. The five allegations involved “false imprisonment,” “unauthorized tactics,” and “unbecoming conduct” (harassment). All allegations were adjudicated as “unfounded.”

The following concerns were identified based on a review of this investigation:

Paraphrased Statement

On tape, the complainant alleged that his vehicle was unnecessarily impounded. Specifically, the complainant indicated that he stopped the vehicle outside his mother’s home and both his mother and cousin had a valid driver’s license. The complainant indicated that the watch commander told him and his mother that his mother could take the vehicle, but then one of the accused officers asked to talk to the watch commander away from them and the vehicle was impounded.

Unframed Allegations

It appears that the complainant also alleged harassment by one of the accused officers in the past. In the complainant’s interview, he stated that one officer had pulled him over approximately five or more times in the past to see what or who the complainant had in his vehicle and the complainant was never cited. Additionally, as stated above, the complainant also alleged his vehicle was unnecessarily impounded.

06-1277

This complaint resulted from the complainant alleging that unknown officers went into her brother-in-law’s apartment and hit him. The complainant stated she was not present when the alleged acts occurred. The Department framed an allegation of “unauthorized force” and “discourtesy” against unidentified officers. Both allegations were adjudicated as “unfounded.”

The following concern was identified based on a review of this investigation:

Adequacy of the Investigation

When the complainant was being telephonically interviewed, her husband was talking to her in the background. The complainant stated that she made the complaint because her husband witnessed the alleged acts at his brother’s house. An investigator’s note indicated the “complainant did not identify her husband.” However, there is no evidence on tape that the complainant was asked to identify him. Additionally, the husband, in the background, confirmed that the officers stated that they could “do anything, even kill [his brother],” yet this information was not included in the investigative file. Additionally, the Daily Field Activity Reports that were included in the investigative file were for the day after the incident, not the day of the alleged incident.²³

²³ As previously stated, the investigation did not identify an accused officer.

06-0524

This complaint investigation resulted from the complainant being stopped and cited for three vehicle code violations. The complainant refused to sign the citation and his vehicle was impounded and he was arrested. The complainant alleged that unknown officers intentionally struck his head against the police car doorframe. The Department framed one allegation of “unauthorized force” against an unknown officer. The allegation was adjudicated as “unfounded.”

The following concern was identified based on a review of this investigation:

Adequacy of the Investigation

The watch commander’s daily report indicates that the complainant had a passenger in his vehicle. This person, whose name was documented in the daily report was not interviewed. This individual may have had information about the allegation that an officer banged the complainant’s head on the doorframe of the police vehicle. Given that the complainant was not cooperating and recanted his initial allegation, attempts to interview this potential witness should have been made.²⁴

05-4050

This complaint resulted from an incident in which officers, investigating a recent towing transaction in which a member of the public questioned the conduct of the towing company, detained the complainant who worked at the towing company. During the incident, the officers attempted to obtain information regarding the transaction from the complainant. The complainant alleged that the officers illegally detained her and used unnecessary force. She also alleged that one of the accused officers was unprofessional. This complaint resulted in five allegations against two officers. The allegations included “false imprisonment,” “unauthorized force,” and “discourtesy.” All allegations were adjudicated as “exonerated” and “non-disciplinary.”

The following concern was identified based on a review of this investigation:

Unframed Allegations

Based on a review of the complainant’s paraphrased statement and tape-recorded interview, she also alleged that she was unnecessarily handcuffed and that one of the accused officers did not provide his serial number when she requested it. These allegations should have been framed.

05-4265

This complaint resulted from an incident that occurred in a pizza parlor outside the City of Los Angeles. The complainant and accused officer’s sons were involved in an altercation. In an attempt to intervene, the complainant stated that the accused off-duty officer was discourteous to her and pushed her husband in the chest. An outside law enforcement agency, for which the

²⁴ Per the Consent Decree, reasonable efforts to investigate withdrawn complaints should still take place to determine whether the complaint can be corroborated.

accused officer had previously worked, responded to the restaurant but did not make contact with anyone from either the complainant's party or accused officer's party. The complainant reported the incident to the same agency the next day as she wanted the incident documented. The complainant later called the Department to make a complaint. The Department framed one "unauthorized force" and two "discourtesy" allegations against the off-duty officer. The three allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Unframed Allegation

Based on the complainant's paraphrased statement, the accused officer asked his brother to show him the person who confronted his son, so that he could "beat him up." This allegation of "unbecoming conduct" was not framed.

Other Concern

The OIG believes the allegations of "discourtesy" and "unbecoming conduct" should have been adjudicated as "insufficient evidence to adjudicate," instead of "unfounded." Specifically, the Commanding Officer questioned the complainant's credibility because the complainant made the allegation and filed an incident report the next day when she discovered that the person involved was an LAPD officer and because her husband would not cooperate or agree to be interviewed.²⁵ However, there could have been several reasons why this occurred. Based on the totality of the investigation, it appears that "insufficient evidence to adjudicate" may have been a more appropriate adjudication.

05-0953

This complaint resulted from an incident in which the complainant was arrested for driving under the influence. The complainant alleged that the officers used unnecessary force and stole his money during the arrest. The Department framed five allegations against two officers. The five allegations included "unauthorized force," "theft" and "discourtesy." The allegations were adjudicated as "unfounded."

The following concern was identified based on a review of this investigation:

Adequacy of the Investigation

The investigation indicated that the use of force that the complainant alleged occurred during the booking process at the jail facility rather than during his arrest. Although the complaint facesheet indicated that the complainant alleged that the arresting officers used excessive force, the complainant makes it clear in his subsequent tape-recorded interview that he had no issues with his arrest but that the officers in the jail used "unauthorized force." However, the "unauthorized force" allegation was framed against the arresting officers, instead of the officers that were at the jail.²⁶

²⁵ Additionally, the complainant would not allow her two sons (both minors) to be interviewed.

²⁶ Based on the investigative file, these were different officers.

05-4779

This complaint resulted from an incident in which the complainant's brother was stopped for a vehicle code violation. According to the officers, the brother was about to be arrested for providing false identification and information to a peace officer and committing various vehicle code violations when the brother fled from the officers and hid inside of a business. A non-categorical use of force against the complainant's brother occurred and the use of force was investigated. The Department framed seven allegations of "unauthorized force" against seven officers. The allegations were adjudicated as "unfounded."

The following concern was identified based on a review of this investigation:

Unframed Allegations

The seven allegations of "unauthorized force" against seven officers were all framed based on the IAG investigator's interview of the complainant's brother. However, the complainant herself (who was not a witness but reported information received from her brother) made two additional allegations that were not framed and not addressed in the investigation.

Specifically, she stated that the officers threw her brother's clothes away to hide evidence as to how bad he was beaten by the officers and necessary medical treatment was not provided to her brother until two days after his arrest. These allegations were not addressed during the interview with her brother.

05-0666

This complaint resulted from an incident in which the complainant (a transient) was arrested for possession of a controlled substance. The complainant alleged that an officer pulled her from the rear of a police vehicle and caused bruising to her arms. The complainant also alleged that her handcuffs were too tight. The Department framed two "unauthorized force" allegations against one identified officer. Both allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Other Concerns

Part of the rationale used to adjudicate the "unauthorized force" allegations as "unfounded" does not appear to be supported. Specifically, the Commanding Officer relied on an assessment of the supervisor who stated the bruises on the complainant appeared to be several days old based on their coloration. However, by looking at the photographs, the OIG was unable to conclude whether the bruises were the result of the alleged altercation on the date of the incident or from some time prior. It appears imprudent to make such a conclusion without consulting a physician. Additionally, the OIG's review identified a significant inconsistency in officer statements. The accused officer indicated that he merely assisted the complainant out of the police vehicle. However, his partner officer indicated that the complainant did not require any assistance in exiting the vehicle, which is when the complainant alleged that an "unauthorized force" occurred. Given these concerns, the OIG questions the "unfounded" adjudication made by the Commanding Officer.

05-5681

The complaint resulted from an incident in which the complainant was detained for disorderly conduct when he attempted to interfere with officers conducting a traffic stop of a third party. At the time the officers were attempting to impound the third party's vehicle. The officers stated that they attempted to transport the complainant to various jails for arrest and booking, but as the jails were all full or had long booking waits, they instead chose not to arrest the complainant and returned him to the sober living home where he had been living. The Department framed four allegations against two officers. The allegations involved "unauthorized force" and "neglect of duty" (failed to return the complainant's property). The allegations were adjudicated as "unfounded."

The following concerns were identified based on a review of this investigation:

Other Concerns

It was noted that the rationale the Commanding Officer used to adjudicate the complainant's allegation that the officers failed to return his property was unsupported. Specifically, the Commanding Officer adjudicated that allegation as "unfounded" stating that given the complainant's state of intoxication and lack of recollection of the incident, it was entirely conceivable that the complainant never had any property as described in the investigation and there would be no necessity for the officers to remove any property from the complainant. However, this rationale was contradicted by one of the accused officer's statement that after dropping off the complainant at a sober living home, the officer gave some of the complainant's property to the home's facilitator, but the officer could not recall what property had been given to the facilitator.

05-4525

This complaint resulted from an alleged incident in which the complainant stated she saw unidentified officers use unnecessary force on an unidentified juvenile and heard an unidentified officer make an ethnic remark. The complainant stated she saw the incident from her second-story apartment building. The complainant was interviewed as a witness in a non-categorical use of force incident and she made these additional allegations. The Department framed an "unauthorized force" allegation and an "ethnic remark" allegation against unidentified officers. Both allegations were adjudicated as "unfounded."

The following concern was identified based on a review of this investigation:

Other Concern

The Commanding Officer adjudicated the allegations as "unfounded" because the complainant stated she saw the alleged acts from her second floor apartment and no other witnesses stated they saw the alleged act. However, the investigative file does not provide any evidence that her view was obstructed and given that there were several witnesses that did not cooperate with investigators and that this incident involved several individuals and officers, the OIG believes that a more appropriate adjudication would have been "insufficient evidence to adjudicate."

ADDITIONAL CONCERNS

The OIG also identified additional concerns that did not necessarily relate to a particular complaint investigation or the adequacy of an investigation. The concerns are described below:

Timeliness of TEAMS II Updates for Closed Complaints

There were 101 employees associated with the 56 complaint investigations reviewed as part of this Audit that were closed in August 2006. For each employee, the OIG reviewed their TEAMS II record to determine if the record properly reflected the number of allegations and adjudications as noted on the Final Disposition of the 1.28 document contained in the investigative file.²⁷ As of the beginning of December 2006, 41 of the 100 employees' TEAMS II records did not reflect the allegation(s) and adjudication(s). Most commonly, the OIG noted that the TEAMS II records still reflected that the closed complaint investigation was either "Unknown/Pending" or the TEAMS II record reflected the initial allegations as "Pending." It appears that these omissions were the result of closed complaint investigations not being updated (a data entry issue). However, as of December 8, 2006, the OIG re-evaluated the status of the 41 TEAMS II records and noted that they were updated and accurately reflected that the investigations were closed and the framed allegation(s) and adjudication(s). Based on the results of this testwork, it appears that extra effort is needed to ensure timely updates to TEAMS II are made for closed complaint investigations.

Chronological Records

In reviewing the 56 IAG investigative files (all closed in August 2006), the OIG noted that certain investigations did not have the Chronological Record. At times, the OIG requested IAG to provide the Chronological Record to assist with the review of the investigations. As the Chronological Records can be very insightful as to the various investigative steps completed (e.g., number of attempts to contact complainants and witnesses and details on canvassing attempts), these records should be present in the investigative file when the investigation is submitted for review and adjudication. This concern was discussed with IAG management and they indicated that in September 2006, this requirement was re-emphasized to IAG staff, and they anticipate that this concern will be addressed in investigations closed since September 2006.

Rationale for Not Presenting a Complaint Investigation to the District Attorney

The Department policy requires that personnel complaint investigations be presented to the District Attorney when there is probable cause to believe that a crime was committed and the accused officer committed the crime.²⁸ Of the 31 complaint investigations investigated by the Criminal Investigation Division, four did not indicate the reason the investigation was not presented to the District Attorney. However, the remaining 27 investigations did have the documented rationale. Although the four investigations did not meet the criteria for presentation to the District Attorney, the Department should re-emphasize the importance of documenting the reason an investigation was not presented.

²⁷ If the complaint investigative file did not contain a Final Disposition of the 1.28 document, then the OIG reviewed the Complaint Adjudication Form to make the comparison.

²⁸ This is the protocol established by Justice System Integrity Division (JSID), Office of the District Attorney.

Audibility of Tape-Recorded Interviews

In reviewing the 56 IAG investigative files, the OIG noted that at least five investigations had one or more interviews that were inaudible (or a majority of the interview was inaudible). Some of these tape recordings were made by Area supervisors, not the IAG investigators. However, as all of these investigations are of a higher-risk nature, the information obtained during tape-recorded interviews is crucial to ensure the accuracy and completeness of paraphrased statements. It is recommended that the Department remind supervisors to test the tape-recorder to ensure interviews of complainants, witnesses, and accused employees can be heard. In these instances, it appeared that the tape recorder was too far away from the interviewees, rather than a tape/tape-recorder malfunction.

Referrals for Complaints Related to Other Agency Personnel

The original sample of 56 complaint investigations included two investigations in which it was determined that the allegations did not involve a Department employee (they actually involved employees from another local agency).²⁹ The investigations provided enough information to support these determinations but there was no documentation in the investigative file regarding whether a referral was made to the other agency to investigate the allegation against their employees. The OIG requested IAG to provide information on whether a referral was made and they indicated that information is normally documented in the investigative file. The OIG was unable to determine whether a referral was made. As such, it is recommended that the Department re-emphasize that complaint referrals to other agencies be thoroughly documented in investigative files.

Personal Tape Recordings

As some officers tape-record interactions with individuals on their own personal recorders, it is suggested that IAG and Chain of Command investigations document whether an accused or partner officer tape-recorded the alleged incident (if the incident involved a traffic or pedestrian stop). As previously noted, the OIG identified one investigation in which the arresting officer recorded the complainant's responses to their requests during the traffic stop, yet the investigating officer was unaware of this recording.³⁰ To ensure all available evidence is collected, it is recommended investigators be required to document that they attempted to determine whether the involved officers recorded the incident. This step will be particularly important in the future as the Department begins to equip police vehicles with an in-car digital video system.

Interviews of Accused Officers

Four of the 56 complaint investigations in the OIG's sample did not include an interview of the accused officers as an investigative step. Although each investigation identified independent witnesses who discounted the allegations, there was no documented rationale in the investigations as to the reason the accused officers were not interviewed. In the future, if an accused officer is not interviewed, the rationale should be documented in the investigative file.

²⁹ Since a Department employee was determined not to be involved, these investigations (CF Nos. 06-1268 and 06-1419) were replaced with the next randomly selected complaint investigation.

³⁰ See CF No. 05-4077.

RECOMMENDATIONS

It is recommended that the Department:

- 1) Provide a Plan of Action Report to the Police Commission related to the findings identified in this Audit.
- 2) Re-emphasize the following with Department supervisors:
 - a) Document the rationale for not presenting a complaint investigation to the District Attorney (if applicable).
 - b) Document complaint referrals to other agencies (if applicable).
 - c) Test tape-recorders prior to interviews of complainants, witnesses, and accused employees to ensure the interviews are audible.
 - d) Document the rationale for not interviewing accused officers in complaint investigations (if applicable).
- 3) Require investigators to document whether or not the involved officers recorded an alleged incident, especially if the incident involved a traffic or pedestrian stop.

Prior Recommendation

The OIG's prior complaint audit for Fiscal Year 2005/2006 questioned the standard verbiage used in the Department's notification letters to complainants. Specifically, the OIG disagreed with the verbiage used in letters reporting allegations adjudicated as "unfounded." The letters stated *"Your allegation that an officer was classified as Unfounded. This means that the investigation indicated that the act complained of did not occur."* This verbiage could have improperly implied to a complainant that he/she was lying about the alleged incident. Instead, it was recommended that the letter indicate that the allegation was adjudicated as "unfounded" based on the "preponderance of evidence" to more accurately reflect the basis for the adjudication. Based on discussions with IAG management, this recommendation remains "in progress" because a notification letter exemplar is not yet posted to the Department's Local Area Network (LAN). However, recently, the OIG provided IAG with feedback on IAGs revised notification letter and we anticipate that this recommendation should be implemented in the near future.