

LOS ANGELES POLICE COMMISSION

*REVIEW OF THE DEPARTMENT'S
QUARTERLY DISCIPLINE REPORT*
1st Quarter, 2005



Conducted by

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
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Background

The Consent Decree requires that the Department prepare a quarterly summary report (Department's Report) regarding discipline imposed, including Categorical Uses of Force (CUOF) found to be out of policy, within 45 days after the end of each quarter.

The Department has completed its report for the First Quarter of 2005. The Office of the Inspector General (OIG) received its copy of the Department's Report on May 9, 2005, within 45 days of the end of the quarter, as required by Consent Decree paragraph 88. As required under paragraph 89 of the Consent Decree, the OIG has reviewed the Department's Report, and submits this Report to the Board of Police Commissioners (Commission).

The purpose of the Department's Report is to summarize the imposition of discipline during a particular quarter. Moreover, the OIG is charged with reviewing the Department's Report so as to assist the Commission in assessing the appropriateness of the actions of the Chief of Police (COP) in imposing discipline during that quarter, which assessment shall be considered by the Commission in conducting the COP's annual evaluation (Paragraph 89). As a general matter, we believe, based on our review of the Department's Report, that the COP acted appropriately in assessing discipline during this First Quarter of 2005.

However, we identified 13 complaints closed during the quarter in which, upon initial review of their brief description contained in the Department's Report, the penalty seemed either too high or too low. Thus, we ordered these 13 cases for further review. One case (**CF No. 04-0644**) was unavailable as it was initially being reviewed by the Independent Monitor, and subsequently being reviewed by Internal Affairs Group's (IAG) Review and Evaluation Section (R&E), and was not available in time for evaluation and inclusion in this Report. We also discovered that another complaint (**CF No. 04-2525**) had previously been reviewed by the OIG, which review generated no concerns with either the investigation or the adjudication. In the remaining four complaints, we discovered additional factors upon conducting a preliminary review of the completed investigations, which appeared to justify the penalties imposed and eliminated the need for further in-depth analysis. That left seven cases¹ which we believed merited further in-depth review and evaluation via application of a complaint matrix.

I. Review of Cases -- Methodology

In reviewing these seven cases, a matrix was utilized by the first and second level reviewers. This matrix contains 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" (January 2002) for sworn employees (Sworn Guidelines) and the "Guide to Disciplinary Standards" (April 2003)

¹ CF Nos. 02-4941, 03-0203, 04-0076, 04-0082, 04-1084, 04-3370, and 04-5229.

for civilian employees (Civilian Guidelines). In addition, a Crib Sheet was also used to assist in answering the questions on the Matrix. No interview tapes were reviewed.

II. Results of the Review

Of the seven cases we reviewed, the following four cases are ones which believe merited further discussion in this Report.

CF No. 03-0203

This complaint arose out of an altercation between a civilian employee and several patrons at a bar. The investigation revealed that there had been a verbal dispute and some type of physical altercation between the parties. However, the accused claimed to have pushed one of the patrons in self-defense, and the investigation did not discredit this claim. Moreover, the accused claimed to have been attempting to defend a helpless intoxicated female patron whom the accused believed was being accosted by several male intoxicated patrons.

One of the reasons we reviewed this complaint was that we were aware of the accused's prior Sustained complaint involving allegations of Domestic Violence for which the accused had received a five-day penalty. The Sustained allegations in that complaint involved an incident where the accused showed up at a former paramour's home and attempted to force the accused's way into the home, causing a broken chain lock on the front door, and that the accused became involved in a domestic violence incident requiring the response of on-duty officers. The paramour claimed the accused was intoxicated at the time, though the accused claimed to have only had few drinks earlier with dinner. Moreover, another Sustained allegation involved an incident between the same parties while on-duty (they were co-workers), during which the accused used physical force against the paramour to keep the paramour from leaving the room.

Three allegations in **CF. No. 03-0203** were Sustained against the accused employee: 1) that the accused, while off-duty, improperly displayed the accused's civilian LAPD badge; 2) that the accused, while off-duty, made an ethnic remark by telling the complainant that "he should go back to Africa;" and 3) that the accused, while off-duty, became involved in a dispute resulting in the response of off-duty officers.

The OIG had no major concerns with the investigation itself. Furthermore, in light of the fact that there was some indication that the accused may have been acting in self-defense and possibly defense of others, the penalty did not seem wholly unreasonable. Indeed, as to the allegations of Ethnic Remarks, though extremely distasteful, we believe an argument could be made that, unlike the Sworn Guidelines which do not limit Ethnic Remarks to those made while on-duty, the only specific provision in the Civilian Guidelines which provides for a penalty to be imposed for Ethnic Remarks, does so only in an on-duty context. The only provision of the Civilian Guidelines which arguably addresses the issue of Ethnic Remarks off-duty is the general misconduct classification of "Misconduct, on or off the job, seriously reflecting on City employees or employment." Thus, but for the fact that others observed the accused's badge during this incident, the accused could not have been disciplined for making an Ethnic Remark.

Our issue concerned the training component of the adjudication, or the lack thereof. This was the second incident in less than fifteen months in which the accused became involved in an off-duty incident which involved both physical force and alcohol. Though we understand that the Department attempted unsuccessfully to settle this matter which settlement presumably would

have included an agreement by the employee to attend alcohol counseling or be placed on an alcohol contract, we are concerned that, after the failure to obtain such a settlement, the issue of the employee's off-duty conduct was addressed only in a very general manner. The Letter of Transmittal (LOT) indicates only that "[r]oll call training for all [division] employees is recommended regarding off-duty conduct . . ." with an emphasis on alcohol related incidents and culturally sensitive remarks.

We believe this group approach to training was misguided. There was no indication from the complaint or the LOT that there was a widespread problem in the involved division with off-duty incidents involving alcohol. Rather, the accused was the one with the problem, and the accused should have been individually counseled regarding these issues. Moreover, as a supervisory civilian employee, there is a heightened expectation that the accused will behave appropriately off-duty, and the accused should have been specifically admonished that the making of racial remarks cannot be tolerated and are especially dangerous if made by a supervisor. Further, even though these remarks were made off-duty, the accused should have been sent to cultural sensitivity training to ensure that such remarks would never be made in the workplace.

CF No. 04-5229

This complaint again involved a supervisory employee accused of making an Ethnic Remark, though the remark was initially classified as an Improper Remark. The allegation which was sustained was that the accused supervisor, at some point during a small going away party in an office conference room, was overheard by two women passing by the conference room saying, "You know how those Black girls are." The Department Sustained the complaint, and the employee received an Admonishment.

Of concern to us was that the allegation was initially inappropriately classified by IAG as an Improper Remark, as opposed to an Ethnic Remark, which caused the complaint to be mis-assigned to the involved area, as opposed to IAG, for investigation. Fortunately, someone at the involved area caught the mistake and contacted personnel at IAG/R&E who agreed that the complaint was mis-classified and mis-assigned. Thus, the complaint was re-assigned to IAG.

Though the accused's TEAMS reflects a sustained Ethnic Remark allegation, the penalty actually imposed – an Admonishment -- was consistent with that for an Improper Remark as opposed to one within the range for an Ethnic Remark.² However, according to our follow up discussions with IAG, the penalty of an Admonishment was imposed because the employee was set to retire the same month the complaint was adjudicated. Moreover, according to IAG, "attempting to impose a suspension, rather than an admonishment, [on] a retiring employee" can pose significant administrative difficulties, "with little benefit." Had the accused not been retiring, we believe that cultural sensitivity training would also have been appropriate.

CF No. 04-3370

This complaint involved allegations that an employee unnecessarily pointed a firearm at a citizen with whom the employee had gotten into a possible "road rage" incident (though it was unclear who was the main aggressor), and that the employee unnecessarily became involved in a dispute with a citizen, which resulted in the response of on-duty officers. We believe the Department properly classified the first allegation as Insufficient Evidence to Adjudicate, because the

² The Sworn Guidelines recommend a five to nine day suspension for a first-time Ethnic Remark. For a first-time Improper Remark, the penalty is a written penalty through a four day suspension. For a second Ethnic Remark, the recommended penalty is a 10-14 day suspension; for an Improper Remark, it is a five to nine day suspension.

investigator was unable to contact the complainant because he had provided a non-existent home address and phone number to the responding sergeant. Moreover, the percipient witness could not be formally interviewed as he also provided a disconnected phone number.

The Department Sustained the allegation that the employee became involved in an off-duty dispute which required the response of law enforcement. Assuming that was the only allegation which could have been sustained, the Admonishment imposed would have been appropriate. Indeed, we commend the Department for continuing to pursue the investigation and to interview other available witnesses, such as the responding LAPD officers, in an effort to resolve this complaint, despite the unavailability of the complainant or the independent witness.

However, the investigation also revealed that the employee refused to cooperate with the two officers from the involved area who responded to the scene. Though a sergeant from a neighboring division who was eating lunch in the area and heard the radio call was the first to respond to the scene and spoke with both parties briefly, this sergeant appropriately deferred the full-scale criminal investigation to the officers who ultimately responded from the involved division. When one of the subsequently responding officers attempted to speak to the employee, the employee pointed to the sergeant and claimed that the sergeant already knew the story. The responding officer informed the employee that she was the officer assigned to the radio call and that she needed to know what was going on. The employee again pointed at the sergeant and claimed that the sergeant knew the story. A second responding officer who attempted to speak to the employee also described the employee as uncooperative, refusing to answer questions.

We are concerned that a Department employee would behave in this manner. A Department employee has an obligation to cooperate with a law enforcement investigation. This employee's conduct certainly fell short of what is expected from Department employees with no reasonable justification. Arguably, this conduct could have warranted an additional allegation of misconduct for failing to cooperate with law enforcement conducting an official investigation, which, if sustained, could have resulted in a higher penalty than an Admonishment. We have informed IAG of our concerns regarding this particular case.

CF No. 04-0076

In this complaint, **CF 04-0076**, the accused, a civilian employee, allegedly snatched the keys to a holding cell back from the arresting officers, and told the officers to make sure the arrestee wiped his hands before placing him in the cell. The accused also allegedly said, "While you're at it, why don't you wipe his ass too?" This complaint was Sustained, and the accused received an Admonishment. One of the accused officers also received an Admonishment for asking, "Do we have to wipe their assess around here?" and "Do you want me to wipe his ass too?"

Overall, we did not have an issue with the complaint investigation itself or the penalty imposed. However, part of the reason we reviewed this complaint is that we had recently attended a case signing session during the Second Quarter of 2005 where the same civilian employee faced Sustained allegations involving making Improper Remarks to a female inmate, and trying to develop a relationship with the inmate while on-duty. Specifically, the allegations were that the accused gave the inmate a breast pump unsolicited, and the accused told the inmate the accused liked her shape, and asked her out on a date. The penalty imposed in this later complaint (Later Complaint) case was low – one day – and though we were not aware of the outcome of **CF No. 04-0076** at the time the Later Complaint was presented for penalty imposition, the Department

should have been, and we are concerned that they did not properly take into account CF No. 04-0076 when imposing a one-day penalty for the Later Complaint.

After the case signing, we also learned that the accused had a previous complaint dating from 2003 (Prior Complaint) which involved another allegation of improper conduct between the accused and a female inmate. The accusation in the Prior Complaint was that the accused took a female inmate to the strip cell and ordered her to disrobe in front of the accused. While there, the accused allegedly fondled her breast, and made several very lewd, graphic sexual remarks to the female arrestee. The inmate first made these allegations to the doctor treating her for being under the influence of PCP, which might have contributed to this complaint being Unfounded.

We recognize that the Prior Complaint, as it was Unfounded, could not have been used to impose discipline in subsequent cases. Nevertheless, this Prior Complaint, taken in combination with the two subsequently sustained complaints, raises the specter of the beginnings of a pattern of, at a minimum, improper remarks in the presence of arrestees, not to mention potential high-risk behavior by this employee. We followed up with IAG to ask them to evaluate the employee's history to determine if further action or analysis was warranted. We have since spoken with IAG who have informed us that they will be taking appropriate action to address our concerns.

III. Review of Categorical Uses of Force

During this First Quarter, five (5) Categorical Uses of Force (CUOF) incidents were closed in which the Commission adopted a finding of Out of Policy or Administrative Disapproval. There were four (4) Officer-Involved Shootings (OIS); and one (1) Law Enforcement Related Injuries (LERI). In all but two of the five cases (A014-01 and 008-04), the Commission concurred with and adopted the findings of the COP. The five cases are described below.

A014-01 (LERI – adjudicated under a former COP)

A suspect who was driving a stolen Toyota erratically failed to stop when an officer attempted to pull him over. Employee #1, a supervisor, was the first to respond to the pursuit and broadcast a request for a TASER and a shotgun. Employees #2 through #5 joined the pursuit. Employee #1, concerned about the numerous children playing in the streets, formulated a tactical plan to use the beanbag shotgun, carried by Employees #4 and #5, to shatter the driver's side window of the vehicle to extract the suspect. As the pursuit continued, Employee #6 advised the others that the suspect was leaning toward the floorboard area of the vehicle and possibly arming himself. At one point, Employee #5 shot one beanbag round which shattered the driver's side window. The suspect continued to flee as officers ordered him to stop his vehicle.

At this point, numerous citizens in the street were cheering the suspect on. Employee #1 directed Employee #2 to fire the TASER if the opportunity arose and Employee #5 to provide cover with the beanbag shotgun. The suspect momentarily stopped the vehicle, and Employee #2 and Employee #5 approached the vehicle, armed with the TASER and beanbag shotgun, respectively. Employee #2, believing that the suspect might be arming himself due to his leaning over, fired a TASER cartridge at the suspect's back. The TASER did not hit the suspect.

The suspect's vehicle inched forward and slowly began to roll in the direction of a mini-market and a sidewalk. Employee #5 fired another beanbag round at the suspect. The beanbag round struck the suspect and his rib cage area, and he raised his hands. Employee #2 stepped forward and fired an additional TASER cartridge at the suspect which lodged in his upper biceps.

Observing the suspect's empty hands, Employee #4 pulled the suspect out of the vehicle and was assisted by other officers in handcuffing the suspect. Employees #3 and #7 placed a Hobble Restraint around the suspect's legs. Paramedics responded and transported the suspect to the hospital where he was treated for blunt force trauma and pulmonary contusions.

The former COP had several tactical concerns. He was concerned that, believing the suspect was possibly armed, Employees #2, #4, and #5 elected to approach the vehicle. He was critical of Employee #4's decision to grab the suspect by the wrist while he was seated in the driver's seat and vehicle was still moving. The former COP determined that Employee #4's tactics were seriously deficient and required Administrative Disapproval. He determined that Employee #2 and #5 would benefit from additional tactical training and directed the Employees' Commanding Officer (CO) to schedule them for tactical training at Continuing Education Division (CED).

The Commission rejected the former COP's recommendation of Administrative Disapproval for Employee #4, instead directing that Employee #4 receive training, as videotape of the incident showed that the suspect's vehicle had come to a complete stop when Employee #4 reached into the vehicle, and the car was blocked in front by a building and in back by a patrol unit. Thus, there was little danger of the suspect driving off.

The former COP was also critical that Employee #1 did not communicate to the officers that the tactical plan would be implemented only after the pursuit had clearly terminated and the suspect's vehicle was secured. Employee #1's plan to have the officers approach the vehicle at their first opportunity placed them in a dangerous position, and the former COP was also critical that the tactical plan included using the beanbag shotgun to shoot out the window of the suspect's vehicle. He was also concerned with Employee #1's decision to co-mingle ground units and tactics from other agencies (LASD). The former COP, thus, determined that Employee #1's tactics were seriously deficient and required Administrative Disapproval.

The former COP determined that Employee #2's non-lethal use of force was reasonable and necessary to overcome the suspect's resistance and effect an arrest. Though the former COP was concerned that Employee #2 fired the TASER at the suspect while still seated in the moving vehicle, he recommended formal training, in lieu of an Administrative Disapproval finding.

The Commission, based on a recommendation by the OIG, found that Employee #2's non-lethal use of force -- the two TASER rounds -- be found out of policy because firing a TASER at a suspect in a vehicle could have posed a danger to bystanders, and could lead to sharp acceleration or erratic driving by the suspect which could also injure bystanders. Also, the videotape showed that the suspect was not particularly aggressive or combative when the first TASER round was fired. Instead, he only began to creep forward slowly after he was struck with the first TASER and beanbag rounds.

The former COP was critical of Employee #5's decision to utilize the beanbag shotgun to shoot out the suspect's vehicle window because at the time the pursuit was still ongoing and an extraction team to take the suspect into custody was not in place. Moreover, officers are not trained to utilize the beanbag to shatter windows. In addition, the background inside the suspect's vehicle was the suspect's head and torso area. Further, the former COP believed that Employee #5 was premature in the belief that the suspect's slow moving vehicle presented an immediate threat to the citizens on the sidewalk, and that the mere act of the suspect reaching

downward in the vehicle did not justify the use of non-lethal force. Finally, at the time Employee #5 fired the beanbag rounds, the suspect's actions were not aggressive/combative.

Due to the Commission's findings of Administrative Disapproval as to Employee #1 (tactics), and Employees #2 and #5 (use of force), a personnel complaint investigation was initiated, **CF No. 02-2194**. Initially, Employee #1 was given a five-day suspension, and Employees #2 and #5 were each given a four-day suspension. A former COP subsequently reduced all three penalties to an Official Reprimand. It appears that Employee #1 challenged the finding of Administrative Disapproval via an Administrative Appeal, pursuant to which the Guilty finding and Official Reprimand were upheld. The OIG believes a penalty of an Official Reprimand was appropriate as to all three employees.

045-03 (OIS)

Employee, among others, engaged in a vehicle pursuit of a suspect who had threatened his ex-girlfriend with a gun. The vehicle pursuit continued for approximately 40 minutes. The suspect was forced to stop his vehicle when he reached a busy intersection because of heavy traffic. The Employee's partner stopped their police vehicle approximately 15 feet behind the suspect's vehicle. The Employee exited the vehicle and drew Employee's service pistol. The suspect began to back his vehicle up toward the officers' police vehicle. The Employee fired two rounds from Employee's service pistol at the suspect. No one was hit by either of these rounds. The suspect's vehicle slowed, collided with the front bumper of the police vehicle, rolled forward and came to rest approximately 15 feet from the police vehicle. The suspect was subsequently removed from his vehicle and taken into custody.

The COP determined that the threat of the suspect slowly backing his vehicle up did not rise to the level of lethal force. In addition, the background at the time Employee fired at the suspect was the intersection of a freeway overpass that was congested with numerous vehicles including a bus. The COP determined the Employee's use of force to be out of policy, Administrative Disapproval. The COP found that the surrounding tactics used by all employees involved in the incident did not warrant any action, and he found the drawing/exhibiting/holstering by all involved officers to be in policy, no action.

In connection with the underlying investigation into the shooting incident, it was discovered that the double action pull for the Employee's service pistol, a .45 caliber semi-automatic, was less than factory specifications and that the mainspring-retaining cap had been altered, which resulted in less pressure needing to be applied to the trigger in order for the weapon to discharge. According to the Employee, the Employee had taken the weapon to an outside armorer, because the Employee claimed that the Employee had problems with the weapon which the Department armory was unable to fix, and to have the outside armorer polish the weapon's rails. However, the Employee never took the weapon back to the Department armory to have it re-inspected, as required by Department Manual volume 3, section 610.30. Moreover, a Department firearms expert inspected the weapon and determined that the gun's rails had never been polished.

A personnel complaint investigation, **CF No. 04-2988**, was initiated in response to the Employee's underlying use of force being found out of policy. In connection with that complaint, another allegation was added for the modification of the Employee's service weapon. Both allegations were Sustained. Initially, the Employee's CO recommended a five-day penalty. The COP increased the penalty to twenty days, in response to which the Employee indicated the Employee's intention to challenge the penalty pursuant to an opted Board of Rights (BOR).

Eventually, a settlement agreement was entered into with the accused Employee pursuant to which the Employee withdrew the Employee's request for an opted BOR and the Employee received a ten-day penalty. We believe that a ten-day penalty was appropriate in light of the COP's finding, as adopted by the Commission, that the Employee's belief that the suspect's vehicle posed an immediate threat was not reasonable. Moreover, the investigation could not definitively prove that the Employee knowingly and/or intentionally modified the Employee's weapon, though the Employee did violate Department policy in failing to have the weapon re-inspected by the Department armory.

049-03 (Accidental Discharge)

The Employee while off-duty retrieved the Employee's service pistol from the gun safe in the garage. As the Employee walked away from the safe, the Employee bumped a knee and lost their balance. As the Employee fell forward, the Employee accidentally discharged one round.

The COP was concerned that the Employee did not holster the weapon immediately after retrieving it. The COP found Employee's use of force to be accidental, Administrative Disapproval. The Chief indicated in his report that he would direct the Employee's CO to schedule the Employee for additional firearms training at Training Division.

In the course of the Department's investigation into the accidental discharge, some concern arose as to whether the Employee's original statement to the outside agency officers who responded to the scene conflicted with the Employee's statements to Department personnel. Thus, in the complaint investigation generated in response to the Employee's accidental discharge, **CF No. 03-4055**, the Department added a count of making false statements to law enforcement officers. Both counts were originally Sustained, and the Employee was directed to a BOR.

However, the Department ultimately settled this complaint for a fifteen day suspension because it was later determined that the Employee's statements to Department personnel were consistent and credible, the responding agency officers did not conduct a thorough investigation and did not tape-record the Employee's statements to them, and a neighbor of the Employee contradicted the outside agency's version of what the Employee had told them. As a result of the settlement agreement, the Department adjudicated the allegation of False Statement as Not Resolved. The Shooting Violation remained Sustained.

The OIG previously reviewed this settlement in connection with its review of the Department's Discipline Report for the Fourth Quarter of 2004 and concluded that the penalty was appropriate.

04-008 (OIS)

Employees #1 and #2 were on patrol when they observed three males standing in an alley behind an apartment complex. As the Employees drove down the alley, the suspect turned away and walked quickly towards a wooden gate separating the apartment parking lot from the rear courtyard of the apartment complex. The other two males remained standing in the alley.

As the suspect walked away, he placed his right hand in his right front pocket. Employee #1 could see the butt end of a pistol in the suspect's right pant pocket. Employee #1 advised Employee #2 that the suspect was armed. Employee #1 ordered the suspect to stop and raise his hands. The suspect ran toward the open wooden gate, with Employee #1 running after him.

Once in the rear courtyard of the apartment complex, the suspect ran to a locked wrought iron metal security door which separated the rear courtyard from the apartment complex's interior courtyard. The suspect attempted to open the security door but could not and began to pound on the door while shouting, "Mama, mama!" Employee #1 observed the suspect's hands to be empty. Employee #1 ran to the suspect, grabbing the top of the suspect's forearms in an attempt to force his arm behind his back. The suspect resisted Employee #1's grip in an effort to break free. Employee #2 grabbed the suspect's right wrist and attempted to force the suspect's right arm behind his back. The suspect continued to resist. Employee #1 reached into the suspect's right front pant pocket to remove the pistol, wrapped inside a clear plastic sandwich baggie. Due to the suspect's continued resistance, Employee #1 was unable to grab the suspect's gun.

The suspect swung his shoulders back and forth causing himself and the officers to be positioned in front of a glass window of an apartment unit. The suspect suddenly stepped forward toward the window causing himself and the officers' upper bodies to hit the window and break it. Employee #1 lost Employee #1's grip on the suspect's left arm and stumbled back while Employee #2 struggled to maintain a grip on the suspect's right arm. The suspect managed to break free of Employee #1's grip. Employee #1 observed the suspect's right hand inside his front right pant pocket on the handle of the pistol which was still inside of his pant pocket. Employee #1 saw the pistol pointed at Employee #2. Employee #1 drew Employee #1's gun and fired one round at the suspect. The round did not appear to affect the suspect who was still aiming his pistol from inside his pant pocket at Employee #2. Employee #1 fired a second round at the suspect which again appeared to have no effect. Employee #1 fired a third round at the suspect who fell onto the ground in a seated position. The suspect attempted to remove the pistol from his pocket with his right hand while looking at the officers.

The suspect was unable to remove the pistol and passed out. Employee #1 approached the suspect, removed the pistol from the suspect's pocket, and tossed it away from the suspect. The suspect was later pronounced dead by responding paramedics.

The COP was critical of the Employees' tactics. The Employees failed to advise Communications Division of their status and location or request back up for an armed suspect. The COP was also concerned with the lack of communication between Employee #1 and #2 when Employee #1 chose to exit the vehicle and pursue the suspect, leaving the two additional suspects behind. The COP was critical of Employee #1's attempt to obtain the suspect's gun prior to ensuring the suspect was handcuffed. After the officer involved shooting, Employee #1 failed to advise Employee #2 that Employee #1 was going to approach the wounded suspect and remove the gun. In addition, the COP was also critical of Employee #1's decision to toss the suspect's gun in the vicinity where the two additional suspects were last seen. The Employees also failed to guard or assign a responding officer to secure the suspect's gun. Lastly, Employee #1 failed to de-cock Employee #1's weapon prior to holstering it. The COP determined that the Employees' tactics were deficient and warranted Administrative Disapproval, and directed the Employees' CO to schedule them for tactical training at CED. The COP found both Employees' drawing of their weapons and nonlethal use of force to be in policy, no action. Moreover, the COP found Employee #1's use of lethal force to be in policy, no action.

The Commission subsequently determined that the finding against Employee #2 as it related to tactics should be changed from Administrative Disapproval to Training. Thus, in the related personnel complaint investigation, CF No. 04-5885, one allegation of Unauthorized Tactics was

sustained against Employee #1 who received an Admonishment. The OIG believes this was an appropriate penalty.

OIS 058-04 (Accidental Discharge)

The Employee was off-duty at the Employee's residence when the Employee decided to oil the Employee's personal shotgun. While at the dinette table, the Employee visually inspected the chamber and loading/ejection port, and downloaded five shotgun shells from the shotgun's tube magazine. The Employee walked into the living room and pointed the shotgun at the north wall. When Employee closed the action, the shotgun discharged a round striking the north wall. None of the pellets perforated the wall between the living room and the garage.

The COP was concerned that the Employee did not follow all of the basic firearms safety rules. The COP found the Employee's use of force to be accidental, Administrative Disapproval. The COP indicated in his report that he would direct the division CO to schedule the Employee for additional firearms training at Training Division. The Employee received an Admonishment in connection with the personnel complaint generated as a result of this incident, **CF No. 04-5676**. The OIG believes this to be an appropriate penalty. However, as of the time of this writing, the Employee's TEAMS report did not reflect additional firearms training subsequent to the adjudication of this incident.

IV. Conclusion

Our review revealed no major issues relative to the COP's imposition of discipline during the First Quarter of 2005, as the imposition of discipline overall appeared to be appropriate based on the facts of the individual cases. In addition, we believe the Department has made substantial progress in ensuring that employees who are directed to training are attending such training and that such training is being accurately reflected on employees' TEAMS reports.