

**LOS ANGELES POLICE COMMISSION**

*REVIEW OF THE DEPARTMENT'S  
QUARTERLY DISCIPLINE REPORT*  
4<sup>th</sup> Quarter, 2008



Conducted by

**OFFICE OF THE INSPECTOR GENERAL**

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Inspector General

April 23, 2009

## **I. Introduction**

The Consent Decree requires that the Los Angeles Police Department (LAPD or Department) prepare a quarterly report regarding discipline imposed, including Categorical Uses of Force (CUOFs) found to be out of policy, within 45 days after the end of each quarter (See Consent Decree Paragraph 88). The Department has completed its report for the Fourth Quarter of 2008 (Quarter). The Board of Police Commissioners (Commission or BOPC) received its copy of the Department's Quarterly Discipline Report (Department's Report) on February 19, 2009. As required under Consent Decree Paragraph 89, the Office of the Inspector General (OIG) has reviewed the Department's Report and has submitted its own Report to the Commission.

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

In Section III, the OIG reviewed cases closed during the Quarter that contained at least one allegation of Narcotics related misconduct. The OIG reviewed these cases to determine the overall quality of the investigations. Areas focused upon included, but were not limited to, whether the investigation was fair and objective, whether the adjudication results were supported by the evidence and whether a reasonable effort was made to identify and interview relevant witnesses and gather pertinent evidence.

In Section IV, the OIG discusses cases closed during the Quarter that were determined to be Out of Statute (OOS). This Report includes six such cases that were closed during the Quarter. The OIG was provided with additional documentation to explain why these cases fell OOS and what remedial action, if any, was taken to avoid similar recurrences.

Section V contains our review of the discipline imposed relative to the four CUOF incidents where the Commission adopted a finding of "Out of Policy" and/or "Administrative Disapproval," which were closed during the Quarter, and which are enumerated on Table L of the Department's Report.

Section VI contains information about the need to update Training, Evaluation and Management System (TEAMS) Reports to reflect the Commission's findings regarding CUOF incidents.

Finally in Section VII, the OIG provides overall conclusions about the cases that we reviewed this Quarter.

On April 7, 2009, OIG staff received a response to our preliminary findings in this report from the Commanding Officer (C/O) of the Internal Affairs Group (IAG). The information provided by IAG in their response was taken into consideration prior to finalizing this report.

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

As a result of our review of the Department's Report, we utilized the information provided and conducted some additional analysis to aid the Commission in its review and evaluation of the discipline imposed during this Quarter.

### Sustained Information Summary

A classification of an allegation as "Sustained" means that the Department's investigation disclosed that the act complained of did occur and constituted misconduct. The standard of proof used by the Department in adjudicating administrative complaint investigations is a preponderance of the evidence, which means, "the greater weight of the evidence...that has the most convincing force."<sup>1</sup> Preponderance of the evidence is also "the burden of proof in most civil trials, in which the jury is instructed to find for the party that, on the whole, has the stronger evidence, however slight the edge may be."<sup>2</sup>

Using the information contained in the Department's Report, we determined that the percentage of sustained allegations was 12.9% (total number of sustained allegations/total number of allegations = 366/2835 = 12.9%). Also using the information in the Department's Report, we determined that the percentages of sustained allegations for each of the 10 most common allegations this Quarter were as follows, in descending order of sustained rate:

Allegation	Sustained Rate	No. of Sustained Allegations/ Total Number of Allegations
Accidental Discharge	100.0%	2/2
Insubordination	100.0%	7/7
Alcohol Related	83.3%	10/12
Preventable Traffic Collision	75.7%	103/136
Misleading Statements	72.7%	8/11
Off-Duty Altercation	70.0%	7/10
Dishonesty	63.6%	7/11
Failure to Appear	57.1%	12/21
Failure to Qualify	50.0%	12/24
Domestic Violence	46.2%	6/13

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<sup>1</sup> Black's Law Dictionary 1220 (8th ed. 2004).

<sup>2</sup> Id.

Allegation Summary

We created an additional table, depicted below, which utilizes data from the Department's Tables C, E and II.

<b>Classification</b>	<b>Sustained Allegations/ Total Allegations</b>	<b>Sustained Rate</b>	<b>Percentage of Total Allegations</b>	<b>Number of Accused Employees<sup>3</sup></b>	<b>Number of Employees w/ Sustained Allegations<sup>1</sup></b>
Accidental Discharge	2/2	100%	0.1%	2	2
Alcohol Related	10/12	83.3%	0.4%	10	8
Discourtesy	12/480	2.5%	16.9%	318	9
Discrimination	0/30	0.0%	1.1%	23	0
Dishonesty	7/11	63.6%	0.4%	6	3
Domestic Violence	6/13	46.2%	0.5%	7	4
Ethnic Remark	4/20	20.0%	0.7%	16	3
Failure To Appear	12/21	57.1%	0.7%	19	11
Failure To Qualify	12/24	50.0%	0.8%	24	12
False Imprisonment	0/177	0.0%	6.2%	144	0
False Statements	15/90	16.7%	3.2%	67	10
Improper Remark	2/22	9.1%	0.8%	16	2
Insubordination	7/7	100.0%	0.2%	7	7
Misleading Statements	8/11	72.7%	0.4%	8	6
Narcotics/Drugs	5/11	45.5%	0.4%	5	2
Neglect of Duty	91/570	16.0%	20.1%	361	62
Off-Duty Altercation	7/10	70.0%	0.4%	5	4
Other Policy/Rule	0/88	0.0%	3.1%	52	0
Preventable Traffic Coll.	103/136	75.7%	4.8%	134	103
Racial Profiling	0/72	00.0%	2.5%	55	0
Retaliation	0/29	0.0%	1.0%	17	0
Service	0/9	0.0%	0.3%	7	0
Sexual Misconduct	3/13	23.1%	0.5%	7	3
Theft	2/40	5.0%	1.4%	22	1
Unauthorized Force	1/277	0.4%	9.8%	182	1
Unauthorized Tactics	4/74	5.4%	2.6%	57	4
Unbecoming Conduct	53/497	10.7%	17.5%	286	31
Unlawful Search	0/89	0.0%	3.1%	65	0

<sup>3</sup> Data in this column were taken from Table II in the Department's Report. Employees are separately counted for each complaint and for each allegation type; thus a single employee may be counted repeatedly. Accordingly, the numbers in this column do not match the exact number of employees against whom the allegations were sustained.

Allegation Summary by Employee Rank – Listed by Allegation Type

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

	<b>Sustained Allegations/ Allegations</b>	<b>Overall Sustained Rate</b>	<b>Sustained Allegations/ Total Allegations (Minus PTCs, FTAs, &amp; FTQs)</b>	<b>Overall Sustained Rate (Minus PTCs, FTAs, &amp; FTQs)</b>
Allegation Total	366/2835	12.9%	239/2654	9.0%
Command Staff <sup>4</sup>	1/35	2.9%	1/33	3.0%
Lieutenant	3/21	14.3%	1/16	6.3%
Sergeant	28/142	19.7%	23/133	17.3%
Detective	28/215	13.0%	10/194	5.2%
Police Officer III	61/509	12.0%	31/466	6.7%
Police Officer II	153/1135	13.5%	90/1050	8.6%
Police Officer I	22/171	12.9%	14/159	8.8%
Reserve Officer	3/14	21.4%	3/14	21.4%
Detention Officer	9/21	42.9%	9/21	42.9%
Civilian Personnel	58/572	10.1%	57/568	10.0%

Twelve percent (12.9) of all misconduct allegations were sustained during this Quarter. Nine percent (9.0) of all allegations were sustained when PTCs, FTQs, and FTAs were removed.

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<sup>4</sup> The OIG noted that there was one allegation sustained against Command Staff, for Neglect of Duty (CF No. 06-0680) this quarter. We also noted that the 35 allegations included in this quarter's Report is the highest number of allegations against Command Staff in the four quarters of 2008. In the 1<sup>st</sup> Quarter there were 13 allegations, in the 2<sup>nd</sup> Quarter there were 22 allegations, and in the 3<sup>rd</sup> Quarter there were 23 allegations.

### **III. Review of Narcotics Cases**

#### **A. Methodology**

This Quarter the OIG conducted in-depth reviews of complaints that involved narcotic related misconduct allegations. During the Fourth Quarter of 2008, a list generated from the Department's Complaint Management System (CMS) revealed that there were four<sup>5</sup> complaints with at least one allegation of narcotic related misconduct.

In conducting this review, a matrix was utilized by the first and second level reviewers. This matrix contained 36 questions designed to evaluate the quality, completeness, and findings of the completed investigation, including whether the discipline imposed was justified and appropriate in light of the surrounding circumstances, the employee's disciplinary history, and the standards enunciated in the Department's "Management Guide to Discipline" (July 2004) and the "Civilian Penalty Guide" to Discipline Standards (January 2008). In addition, a Crib Sheet was used to assist in answering the questions on the matrix.

OIG staff also reviewed all available recorded interviews. In reviewing the recorded interviews in these cases, the OIG utilized a separate matrix containing 18 questions designed to evaluate whether: (1) the interviews were properly summarized to include all relevant testimony; (2) all allegations raised by the complainant were properly formed; (3) any additional allegations raised during the interviews were addressed in the completed investigation; (4) the interviews themselves were conducted properly (e.g., whether the interviewer used inappropriate or leading questions, or adopted a hostile or inappropriate tone with the witness); and (5) logical follow-up questions were asked by the interviewer. Second-level reviewers also listened to recordings that were recommended by the first-level reviewers to be essential to the review.

Although we reviewed four cases that were closed during the Quarter, there were a total of 11 misconduct allegations, because some of these cases involved multiple allegations. In the cases we reviewed, a total of five allegations of narcotic related misconduct were sustained.

#### **B. Findings**

The OIG noted that this Quarter allegations of narcotic related misconduct had a fairly high sustain rate (45.0 percent). The sustain rates for the last ten quarters are depicted in the table below. In fact, the sustain rate for this Quarter is the highest in the last ten quarters, after 42.0 percent in the third Quarter of 2008. The average sustain rate over the last ten quarters was 20.5 percent, but for 2008 the rate is 30.5 percent (18 out of 59 narcotic related misconduct allegations were sustained).

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<sup>5</sup> We did not review the fifth case, CF No. 07-005379, because it did not contain an allegation that a "Department" employee ingested, sold or possessed narcotics. Since there were a low number of narcotics cases closed during the fourth quarter of 2008, we judgmentally reviewed all four complaints (100 percent) of the cases.

Narcotic Related Misconduct Sustain Rate by Year and Quarter

<b>Year / Quarter</b>	<b>Sustained Allegations/ Allegations</b>	<b>Overall Sustained Rate</b>
2008/4	5/11	45.0 %
2008/3	5/12	42.0%
2008/2	1/19	5.0%
2008/1	7/17	41.0%
2007/4	0/21	0.0%
2007/3	3/15	20.0%
2007/2	0/21	0.0%
2007/1	9/27	33.0%
2006/4	1/11	9.0%
2006/3	3/12	25.0%

The reasons for the high percentage of sustained narcotic related misconduct allegations for this quarter, and possibly other quarters as well, are evident after reviewing the cases. Even though, there was a small sample of cases, three of the four cases resulted in criminal investigations, which are subject to a higher standard of proof than administrative cases. These cases, by and large, also included corroborative scientific or video evidence. In summary, our review of narcotics related misconduct cases revealed that overall three of the four complaint investigations (75 percent) conducted by IAG contained enough information for the adjudicators to utilize in making a final adjudication. Although there were some additional steps we would have preferred to have been taken by investigators, the number of additional steps was very small because in addition to reviewing the evidence gathered in the criminal investigations, the OIG found that in the majority of these cases that the Investigating Officer (I/O) made efforts to either canvass the area and/or interview possible witnesses, including police officers from outside law enforcement agencies. In the one case with which we disagreed,<sup>6</sup> CF No. 08-000746, we believed that there were additional means available for the investigator to utilize in an effort to identify the accused employee. The complete review of that case, and actions we believe could have been utilized by the investigator, are included in the next section.

We recommend that the IAG promulgate standard procedures to be used in each case to identify unknown accused employees in complaint investigations. Currently, we have noted that the Department has conducted the following activities in cases we have reviewed in an effort to identify the accused employees:

- Reviewing Department mandated logs (e.g. Daily Field Activity Reports, Watch Commander Logs);
- Reviewing officer work product (e.g. arrest reports, use of force reports, releases from custody and citations);
- Reviewing methods of communication (e.g. MDCs, text messages, and radio traffic in which officers' locales are noted);

<sup>6</sup> The OIG does not believe that there was enough information gathered during the investigation to allow the adjudicator to make an informed decision and does not concur with the resulting adjudication in CF No. 08-000746.

- Conducting a demographic search of personnel in TEAMS and/or the Deployment Rosters, using specific criteria such as gender, race, rank, area of assignment, and watch assignments;
- Canvassing locations frequented by the accused officer for witnesses and other corroborative information;
- Reviewing digital media provided by complainants and witnesses, from cell phones, cameras, video and/or security cameras and then providing this information COs, watch commanders, and supervisors to assist in identifying officers;
- Questioning other officers about their observations of fellow officers; and
- Obtaining operational plans and other written material, in an effort to identify the officers' positions during incidents.

It is unknown as to whether the above listed investigative techniques will significantly reduce the number of unknown accused officers in complaints. However, the OIG has noted in this report, in its report about sexual misconduct cases,<sup>7</sup> and in other reports that there has been difficulty in identifying officers in complaints of a serious nature. Furthermore, given the fact that this quarter, 253 of the 1587 (15.9%) accused employees listed in complaints were unknown; codifying the use of the above listed investigative techniques and continuing to update them could be invaluable to the Department.

#### C. Case Summaries and Analysis

Summaries of cases and our analysis of investigations are listed below.

##### 1. CF No. 06-2211

###### a. Summary

This complaint was filed by the Department against a civilian employee. The Department alleged that the employee, while off duty, unnecessarily drove a vehicle in a reckless manner after becoming involved in a traffic collision, improperly left the scene of that collision resulting in a vehicle pursuit, and operated his/her private vehicle under the influence of prescribed medication.

The investigation revealed that due to medical issues, the accused employee did not have a clear recollection of the events that occurred, but he/she was not under the influence of alcohol or drugs at the time of the incident. There were three involved witnesses in the investigation, including two deputies from the Los Angeles County Sheriff's Department (LASD) and one agent from the Federal Bureau of Investigation (FBI). The three peace officers observed the accused employee's negligent driving behavior and participated in the pursuit and/or booking of the accused. Each officer was interviewed and gave a similar account of the facts involved in the case. The accused employee, pled guilty to reckless driving and a hit and run accident, each of which are misdemeanors. The accused also voluntarily agreed to attend mandatory rehabilitation programs. The Department settled this case with the accused. The settlement agreement<sup>8</sup> included driving restrictions while under the influence of prescription or non-prescription

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<sup>7</sup> The OIG reviewed sexual misconduct cases in its review of the Quarterly Discipline Report for 4<sup>th</sup> Quarter of 2007.

medication and a letter of resignation held in abeyance, which is not to be executed unless he/she violates the terms of the settlement agreement.

The investigation resulted in the following three allegations of misconduct: that the accused employee, while off duty, 1) unnecessarily drove a vehicle in a reckless manner resulting in a misdemeanor, 2) improperly left the scene of a traffic collision causing a vehicle pursuit resulting in a misdemeanor and 3) operated his/her private vehicle while under the influence of prescribed medication. The first two allegations were classified by the Department as "Sustained." The rationale provided that two independent peace officers from the LASD and one from the FBI witnessed the accused employee's negligent driving and his/her failure to yield, which caused the deputies to broadcast themselves in pursuit. The third allegation was classified as "Unfounded." The rationale provided that "The toxicology report indicated that [the accused employee] tested negative for all drugs [and alcohol] in the screen."

The accused employee's complaint history included another similar complaint, which occurred four months prior to this complaint. That complaint was also filed by the Department for the operation of the accused's personal vehicle while under the influence of prescription narcotics, which resulted in a traffic collision and arrest. This allegation resulted in CF No. 06-0255 being initiated which was classified as "Sustained" based on the following rationale: the accused admitted the allegation, plead no contest in Superior Court to the criminal charge of DUI, paid a fine, was placed on probation for 36 months, ordered by the court to enroll in a AB-51 program, ordered not to drive with any measurable amount of drugs or alcohol, ordered not to drive without possession of a valid license, ordered to a restitution hearing and ordered to obey all laws and orders of the court. There was a Military Endorsement that recommended that the penalty be reduced to a five-days based on the following rationale: the initially recommended 15-day penalty was too severe, the accused was under the influence of prescription medication for an injury on duty at the time of the traffic collision, he/she was cooperative throughout the TC investigation, and the accused completed the AB-541 alcohol and drug program.

For CF No. 06-2211, it was initially recommended that the accused receive a five-day suspension pursuant to the settlement agreement. However, the initial penalty was not within the Department's Guidelines, in light of the accused employee's complaint history, which included a prior sustained complaint, CF No. 06-0255, for similar misconduct within four months of this complaint being initiated. Therefore, a ten-day suspension was ultimately imposed. The OIG believes that the ten-day penalty, coupled with the last chance settlement agreement is within the Department's Guidelines given the accused employee's complaint history.

#### b. Analysis of Investigation

Our review did not reveal any investigative deficiencies, which we believe impacted the adjudication.

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<sup>8</sup> The settlement agreement is commonly known as a last chance agreement, which provides "if the accused employee fails to comply with any conditions of this agreement, the letter of resignation from the Los Angeles Police Department previously submitted, shall immediately take effect."

c. Conclusion

The OIG believes that there was enough information gathered during the investigation to allow the adjudicator to make an informed decision.

2. CF No. 07-001366

a. Summary

This complaint was filed by the Department against an officer that was arrested by an outside law enforcement agency for California Penal Code Section 647 (f), Drunk in Public. The accused employee, while off-duty, was observed by several witnesses bullying citizens on the street. One witness called the local police agency after he observed and then experienced a negative interaction with the accused. Officers from the outside agency entered the local bar where the accused employee had gone. The location of the accused employee was found by talking to the witness who called the police and pedestrians who pointed them in the right direction. At the time that the accused employee was confronted, he/she was with two people; one person was later identified as a companion/significant other and the other person was a possible friend/acquaintance. The friend/acquaintance was identified as a "local parolee" by the officers from the outside agency. At the time the officers from the outside agency approached the accused employee they believed that he/she appeared to be under the influence of alcohol and asked him/her to step outside of the bar. Instead of leaving the bar the accused employee suddenly struck the officer with part of his/her body causing the responding officer to be knocked back. The local officer then handcuffed the accused employee who resisted and eventually escorted him/her out of the location. The local officers' supervisor responded to the location as well. All three of the officers that interacted with the accused employee believed that he/she might be under the influence of another substance in addition to alcohol because of the accused's behavior and partly because he/she only had a moderate scent of alcohol on his/her breath. The accused employee continued to be verbally aggressive throughout the process of being arrested and made improper remarks to every person he/she interacted with including two custody officers. Ultimately the accused employee had to be moved from the general "drunk tank and was placed in a safety cell by [him/herself] due to [his/her] behavior" which was verbally and visually recorded. The recording displays the accused employee kicking, punching, pounding and yelling obscenities at the door. A urine sample was provided at the police station of the outside agency which resulted in blood alcohol content readings for the accused employee of 0.16% and a positive result for two "Schedule III, controlled anabolic androgenic steroids."

The investigation revealed that the accused employee consumed several alcoholic beverages throughout the day on the date he/she was arrested. The investigation also revealed that the accused employee met the parolee on the incident date and was unaware of that person's status as a convicted felon. The investigation also showed that the accused employee was excessively aggressive which caused the belief that he/she might be under the influence of another controlled substance other than alcohol. Further he/she unnecessarily pushed the responding officer when asked to leave the bar. The investigation also revealed that the accused employee stated during his/her tape-recorded interview that he/she was being treated by a doctor with steroids during the year of that incident.

The investigation resulted in fourteen allegations of misconduct against the accused employee. The accused employee was directed to a Board of Rights (BOR) and assigned home pending the outcome of that process. The BOR made determinations in the fourteen counts of misconduct.<sup>9</sup> The allegations that the accused employee made numerous discourteous and threatening remarks to an unknown driver and a witness were classified as "Guilty." The allegations that the accused employee challenged a witness to fight and unnecessarily became involved in a dispute with the same witness were classified as "Guilty" counts. The allegation that the accused employee improperly identified him/herself as a Los Angeles Police Officer was classified as a "Guilty" count. The allegations that the accused employee failed to cooperate with and made improper remarks to officers from an outside agency were classified as "Guilty" counts. The allegation that the accused employee inappropriately struck on-duty officer from an outside agency was classified as a "Guilty" count. The allegation that the accused employee improperly maintained a social relationship with a convicted felon was classified as a "Not Guilty" count. The allegations that the accused employee made ethnic and threatening remarks to a civilian employee from the same outside agency were classified as "Guilty" counts. The allegation that the accused employee tested positive for Anabolic Steroids was also classified as a "Guilty" count. Finally the allegation that the accused employee made a false statement to the Investigating Officer was classified as a "Not Guilty" count. Based on the above included rationale, the Chief of Police sustained the Guilty counts and the accused employee was removed from the Department. The OIG believes that the removal penalty is within the Department's Guidelines given the severity of the allegations.

b. Analysis of Investigation

Our review revealed no investigative deficiencies. The Department made every effort to obtain evidence regarding the alleged misconduct, which included interviewing the officers from the outside agency and all identified witnesses who were available.

c. Conclusion

The OIG believes that there was enough information gathered during the investigation to allow the adjudicator to make an informed decision.

3. **CF No. 08-000746**

a. Summary

This complaint was filed against an unknown officer who was accused of using Narcotics with the complainant. The complainant alleged that the accused employee first met him at a convenience store, then at a "strip club," and several other places throughout the course of approximately one month. Also the complainant claimed to have followed the accused employee to his/her residence within that time period and brought his girlfriend with him to that residence as well. According to the complainant each time they met, the accused employee either asked the complainant to ingest or to purchase drugs for the accused employee. The complainant also

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<sup>9</sup> The Chief of Police (and adjudicators) may adjudicate an allegation as Sustained, Exonerated, Not Resolved, Insufficient Evidence to Adjudicate, or Other Judicial Review. A BOR may find an employee to be Guilty or Not Guilty of a count. Further, a count may contain one or more allegations.

advised that on one occasion, the accused employee threatened him with the statement, "People that bump their mouth are found in places where they can't talk anymore."

The investigation revealed that the complainant provided a description of the accused employee, stated that he knew where that officer's residence was located, and that he described several locations where the accused employee might possibly be located. In addition, the complainant provided names of three witnesses who could possibly have made an identification of the accused employee as well. When questioned about why the complainant believed the individual was a Los Angeles Police Officer (LAPD), he claimed to have seen the unknown accused employee on duty in a police vehicle. During the tape-recorded interview the complainant also stated that the type of gun the accused employee carried was another reason he believed that the person was an officer. However, the investigation revealed that the described gun is not an authorized gun for LAPD officers. The complainant also claimed to have taken a picture of the accused employee on and off duty. The investigation contained the picture provided by the complainant but that person was not identified. The I/O also made a further attempt, which was unsuccessful, to locate the accused employee by researching all the names of Department employees that had positive drug test based on the complainant's claim that the accused employee said he had flunked a drug test.

The investigation resulted in four allegations of misconduct against an unknown accused employee. The allegation that the accused employee ingested marijuana and rock cocaine, met the complainant several times at an unknown location, purchased and ingested rock cocaine, and threatened the complainant were classified by the Department as "Insufficient Evidence to Adjudicate." The rationale provided that "the information provided by the complainant was insufficient to identify the accused employee." Additionally, the adjudicator stated that all investigative avenues had been exhausted and the accused employee had not been identified.

b. Analysis of Investigation

There were unresolved discrepancies that the OIG believes affected the outcome of the investigation in this case. For instance, after reviewing the tape recorded interview of the complainant the OIG believes the Department did not exhaust the available investigative resources to identify the unknown accused employee. During the complainant's tape-recorded interview he said that he had been to the accused employee's home and gave a physical description of the exterior. The OIG believes it would have been prudent to have the complainant show them, if possible, the location of the residence. The complainant advised that he became lost when leaving the location, but then was able to recognize the area and find his way home.

Additionally, the club which the complainant indicated was frequented by other witnesses who knew the unknown accused employee was not located, although the I/O attempted to do so. We believe the complainant should have been allowed to show them the location of the club, since he advised he regularly frequented it and had seen the accused employee there on other dates.

c. Department's Response

In its response the Department noted that the complainant stated that "he did not know where the unknown accused employee resided." Further, the complainant was unable to "recall the officer's address or how to get there," nor could he provide "a specific address." Additionally, the Department noted that the I/O made several attempts to obtain additional information in order to narrow the scope of a search of the residence. However the complainant was not able to provide enough information to allow for a canvas the location, and, in fact, was "so high" that he became lost at one point and crossed one of the recognized streets several times.

The Department further opined that given the information that was provided by the complainant, canvassing for the club was not appropriate. It was noted that the complainant provided landmarks; however, the I/O was unable to locate the club in the vicinity after searching for it.

d. Conclusion

The OIG believes that the Department did not exhaust the available investigative resources to identify the unknown accused employee.

4. CF No. 08-000897

a. Summary

This complaint was filed by the Department against a sworn employee. The Department was notified by special agents assigned to the U.S. Immigration and Customs Enforcement (ICE) that the accused employee was involved in a narcotics transaction.

The investigation revealed that ICE and the Federal Drug Administration (FDA) agents executed a federal search warrant at a stash house belonging to a suspected distributor (the suspect) of anabolic steroids. "During the search, agents found quantities of anabolic steroids, as well as an encapsulator machine, scales, and other indicia of distribution." Following the search warrant, the suspect agreed to cooperate with the government. During a debriefing session, the suspect informed the agents that a few months earlier, he traded steroids for an unknown amount of cash, a bulletproof vest, and a .38 caliber revolver, which he had obtained from an LAPD officer. The suspect provided the agents with the officer's name. ICE agents wired the suspect's residence with hidden audio and video equipment. The I/O received 13 digital video disks (DVD's) from ICE agents of a meeting between the suspect and the accused employee. The disks included conversations between the suspect and the accused employee in which they discussed, steroids, controlled substances, and several relationships the accused employee began after meeting individuals on duty. The accused employee was arrested for his/her role in the distribution of steroids and resigned from the Department on the day of the arrest.

The investigation resulted in seven allegations of misconduct against the accused employee. Two of the allegations that the accused employee, while off duty purchased an unknown amount of the steroid "Testosterone" without a valid doctor's prescription, and improperly sold/provided/offered illegal drugs, were classified by the Department as "Sustained." The rationale provided that the accused employee was identified as being involved in the illegal

distribution of steroids. Further, the accused employee was observed meeting with the suspect, and their conversation was tape recorded. The accused employee admitted to buying, using and selling steroids. The accused employee did not have a doctor's prescription for the steroids.

Another two allegations that the accused employee, while off duty worked without a valid work permit, and worked as a security guard without having a valid guard card and firearms permit as required by the State of California, were classified by the Department as "Sustained." The rationale provided that the accused employee was observed working off duty at the Los Angeles Convention Center. A review of his/her work permits on file and his/her guard card/firearms permit applications revealed they were both expired.

An additional allegation alleged that the accused employee, while off duty, carried upon his/her person a weapon, which was not authorized by the Department. This allegation was "Sustained." The rationale provided that at the time of his/her arrest, the accused employee was armed with a Kahr Arms 9mm which he/she was not authorized to carry by the Department.

The remaining two allegations that the accused employee, while off duty was under the influence of a controlled substance without a valid doctor's prescription, and was in possession of the steroid "Testosterone" without a valid prescription were classified by the Department as "Sustained." The rationale provided that following the accused employee's arrest, federal authorities obtained a search warrant for the accused employee's blood, urine, and vehicle. The accused employee's blood tested positive for steroids. Federal authorities also located steroids in his/her vehicle. The accused employee did not have a doctor's prescription for the steroids.

#### b. Analysis of Investigation

Our review did not reveal any investigative deficiencies, which impacted the adjudication of the included allegations. The OIG noted that the surveillance tapes also revealed that the accused employee converted several on duty contacts into off duty relationships, in violation of Departmental policy, but there were no allegations framed. The I/O advised that given the accused employee's resignation and the severity of the included allegations, which would in all likelihood be "Sustained;" there was no need at this time to frame these additional minor allegations.

#### c. Conclusion

The OIG believes that there was enough information gathered during the investigation to allow the adjudicator to make an informed decision.

#### **IV. Discussion of Out Of Statute Cases**

During this Quarter, six cases were closed that were determined to be Out of Statute (OOS).<sup>10</sup> We reviewed the full case files for all six investigations. As part of our examination, we also reviewed six Intradepartmental Correspondences (15.2s) related to these cases provided to us by the Department which detail the reasons that the cases fell OOS and whether remedial actions were taken to prevent recurrence.

Summaries of the OOS cases are as follows:

##### **CF No. 05-4819**

This complaint involved an officer in a specialized unit who obtained confidential medical records during a legal proceeding. The investigator erroneously applied the criminal exception to toll the investigation, when there was no criminal violation of the law associated with possession of the documents. The Department also contended that it had obtained an oral waiver from the accused officer to toll the investigation, but the officer denied ever making a verbal waiver.

The accused officer would have received an Official Reprimand which the Department was prevented from issuing because of the investigation fell OOS. All investigative personnel were subsequently instructed to obtain written waivers to preclude a recurrence of the problem.

##### **CF No. 06-0680**

This complaint involved a sworn Department employee who alleged discrimination at his/her workplace and that he/she observed various acts of misconduct by Department personnel. The complaint resulted in 15 allegations of misconduct against six Department employees. The case was assigned to Division A for investigation. In June of 2006, the case was tolled by Division A due to pending civil litigation. This particular case was transferred to Division B for investigation in July of 2006. In January of 2007, a state appellate court issued an opinion in the *Breslin v. City and County of San Francisco* case.<sup>11</sup> The *Breslin* case established the precedent that tolling under Section 3304 (d)(6) of the California Government Code only applies to allegations against officers specifically named in the lawsuit. Of the six accused employees in this case, five were not named in the civil litigation, therefore the allegations against them were no longer tolled. Division B was unaware of the ramifications of the *Breslin* case and as a result all allegations against the five unnamed employees fell OOS.

The C/O of IAG submitted a 15.2 to the Chief of Police and advised both Division A and B of the ramifications of the *Breslin* case on tolling in general, and this investigation, specifically. Both Divisions will apply the current legal standards to tolling issues when evaluating all future personnel complaint investigations involving civil lawsuits.

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<sup>10</sup> These OOS cases are listed in Table N of the Department's Report: Out of Statute Complaints. All 6 cases are discussed herein. Only 6 out of 1240 (.0048 or .48%) cases were OOS in the 4th QTR.

<sup>11</sup> This case involved identical tolling issues. See *Breslin v. City and County of San Francisco*, 146 Cal.App.4th 1064, 55 Cal.Rptr.3d 14 (Ct. App. 2007).

**CF No. 06-006728**

This complaint involved an officer in a specialized unit who failed to qualify with his/her issued weapon as required. The investigation revealed that even though the officer was periodically precluded from qualifying because of a medical condition, there existed periods of time when he/she could have qualified. The complaint would have been "Sustained" had the complaint not fallen OOS, which occurred as a result of the investigating entity not properly documenting the receipt of the complaint and the progress regarding its completion. Corrective action was taken in the unit to insure that all complaints were properly recorded in the department's Complaint Investigation Tracking System upon receipt. Additionally, all updates about the progress of the complaint investigation will be entered as well.

**CF No. 06-006922**

This complaint involved a primary accused officer who was alleged to have made a derogatory remark towards a suspect. The Department also included two additional allegations against two supervisors for failing to address the derogatory remark during a complaint investigation. The complainant filed a complaint, CF No. 05-0241, in which he alleged that the primary officer failed to arrest a DUI/hit and run suspect. During the investigation of CF No. 05-0241 the complainant advised the two investigating supervisors that the primary accused officer used a derogatory remark towards a suspect. The two supervisors failed to include the derogatory remark as an allegation in CF No. 05-0241. The failure to address this allegation surfaced during an audit of that complaint investigation. As a result, CF No. 06-006922 was initiated to include allegations about the improper remark and the failure to address the improper remark allegation during the investigation. The allegation about the improper remark against the primary accused officer could not be adjudicated because the statute had already expired. The investigating supervisors were issued Employee Comment Sheets for not addressing the improper remark allegation during their investigation of CF No. 05-0241.<sup>12</sup>

**CF No. 07-001282**

This complaint involved a sworn Department employee who alleged harassment by the Department because he/she was served with a sustained personnel complaint after his/her retirement date. This complaint was alleged against a command staff officer, solely because of his/her managerial responsibility within the Department. There were no specific allegations against the accused.

The case was assigned to Division A, but the division C/O and the C/O of Division B agreed that the case should be investigated by Division B. It appears that the statute lapsed due to the fact that the investigating division inadvertently did not return the complaint to Division B for investigation and Division B did not follow up with Division A to obtain the complaint until after the statute lapsed.

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<sup>12</sup> Employee Comment Sheets are used by the Department to document good and deficient performance by an employee and the receipt of several Comment Sheets involving deficient performance could result in further disciplinary action against the employee.

To prevent future occurrences, Division A advised that it has established a tracking system for all complaints assigned for investigation. Additionally, the division has been included on all 30, 60, and 90 day statute lists.

**CF No. 08-000283**

This complaint involved an officer who became involved in a Preventable Traffic Collision (PTC). The CO recommended a Sustained adjudication of the complaint with a penalty of Admonishment.

It appears that the statute lapsed because the Department Fleet Safety Coordinator (DFSC) did not receive a copy of the traffic report or Fleet Safety Report (FSR) until one year and nine months after the date of occurrence. The oversight was discovered by Risk Management Group due to the handling of a lawsuit involving the collision. It was determined that either the bureau traffic division never sent the traffic report to the DFSC or the traffic report was lost. As a result, the FSR was not routed to the investigating division and completed until almost two years after the date of occurrence. Therefore, the complaint was OOS by the time it was processed.

Pursuant to the recommendation of IAG, the investigating division created a tickler file to ensure that an FSR is received for each employee involved traffic collision report. The DFSC sent correspondence advising all traffic divisions to forward all employee involved traffic collision reports within five working days of the incident. Additionally, the Complaint Management System and TEAMS II will soon include automatic routing of complaints and Supervisory Action Items. This system will reduce the opportunity for any assignment or work item to result in untimely processing.

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## **V. CUOFS Adopted As Out of Policy or Administrative Disapproval By the Commission**

During this Quarter, four CUOF incidents were closed in which the Commission adopted a finding of "Out of Policy" or "Administrative Disapproval" (AD). Of the four CUOF incidents, one was a Head Strike; another one was an Officer Involved Shooting (OIS) with a hit; and two were Accidental Discharge cases.<sup>13</sup> Table L in the Department's Report contains additional summary information on each of the four cases, including corresponding complaint information, the Commission's findings and the discipline imposed. Abridged summaries of the OIG's reports in these CUOF cases are included below. The summaries were shortened to limit the number of pages in this Report. The entire OIG public report of each case will be available in the future on the LAPD's website pages for the Commission.

### **Head Strike No. 034-07**

Uniformed Police Officers A and B were driving a marked police vehicle. The officers observed Subject 1 sitting on a bicycle in the middle of the street. Subject 1 was impeding the flow of traffic. Both officers recognized Subject 1 from prior contacts and knew he had previously been arrested for a narcotics-related incident. As they approached, Officer A observed Subject 1 move his hands toward his mouth. This movement caused both officers to believe that Subject 1 had possibly placed narcotics in his mouth.

Officer A stopped their vehicle and the officers stepped out. Subject 1 spontaneously stated, "I already swallowed it." Subject 1 refused to tell the officers what he had swallowed.

The officers requested a rescue ambulance (RA) for a subject who had possibly overdosed on narcotics. An RA responded and transported Subject 1 to the Hospital. Upon arrival at the hospital, emergency room personnel admitted Subject 1. Since no probable cause existed to arrest Subject 1, the officers completed an injury report to document the incident and left the hospital.

According to the hospital records, Subject 1 left the hospital before he was evaluated or treated. Detention Officer C had completed his/her shift and was going off-duty. Detention Officer C left the Department parking facility in his/her personal vehicle. He/she drove northbound and stopped for a red tri-light traffic signal.

Detention Officer C was speaking on his/her cellular telephone and saw Subject 1. Subject 1 was attired in blue jeans and a hospital gown and was standing directly in front of the vehicle. Subject 1 climbed atop the hood of Detention Officer C's vehicle. Subject 1 pulled himself up to

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<sup>13</sup> On July 22, 2008, the Commission approved a Use of Force Directive (Directive) which included the following definitions: "Accidental Discharge: The unintentional discharge of a firearm as a result of an accident such as a firearm a malfunction or other mechanical failure, not the result of operator error;" and "Administrative Disapproval – Negligent Discharge: Finding, where it was determined that the unintentional discharge of a firearms resulted from operator error, such as the violation of a firearm safety rule." All unintentional discharges which occurred after the adoption of this Directive will be defined accordingly. However, for purposes of the QDR, the Department still categorizes some Negligent Discharges as Accidental Discharges due to a lag in the updating of documentation for these types of incidents. The Department is working to bring the terminology in the QDR into agreement with the definitions in the Directive.

the roof, reached inside the open sunroof and shouted, "Give me, give me." Detention Officer C terminated the call immediately and called Officer D.

Officer D was working with Officer E. Both officers were on special detail and attired in Department approved uniforms and wearing body armor. Officer E was driving a marked hybrid police car and Officer D was the passenger. The officers had just finished booking prisoners and were returning to the station.

Officer D heard his/her cellular telephone ringing, saw that Detention Officer C was calling, and answered. Detention Officer C told Officer D, "This guy's in front of my car and will not leave."

When Officer D answered the phone and he/she heard screaming. Officer D immediately told his/her partner to turn the vehicle around.

Officer E pulled up to the intersection, parked the police vehicle, and both officers exited the vehicle. As this confrontation unfolded, it was being witnessed by Witness 1, who was a transient who slept in the bushes at the corner of the street.

Officer D saw that Subject 1 was holding objects in both of his hands.<sup>14</sup> Fearing these objects could possibly be a weapon, Officer D drew his/her pistol. Officer E saw Officer D was pointing his/her pistol at Subject 1. According to Officer E, he/she believed that Subject 1 may be armed. Officer E drew his/her pistol and pointed it at Subject 1. Officer D ordered Subject 1 to lie down on his stomach. Subject 1 went to his knees and then to his stomach with his hands under his chest.

Officer E holstered his/her pistol and Officer D held his/her pistol in his/her right hand, close to his/her body. As he/she reached Subject 1, Officer D placed his/her left knee on Subject 1's right shoulder blade. Subject 1 began to push himself up off of the ground as Officer D made contact with him.

As Officer D came in contact with Subject 1, Subject 1 was struck on the head with Officer D's pistol. According to Officer D, "As soon as my skin made contact, he brought his hands in quickly and rose up to get into a standing position." As "I'm coming down, he's coming up, and his head comes into the muzzle of my weapon, makes contact, and that's when I backed up. I hear my partner draw [his/her] collapsible baton, and I holstered my weapon."

Officer E heard the barrel of Officer D's pistol strike Subject 1; however, he stated he did not see the initial contact. Officer E heard a clunk. "At that point, I look over and I see, I focus all my attention, and I see the lower portion of my partner, the barrel of his/her weapon made contact somewhere in the back of his head."

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<sup>14</sup> The objects in Subject 1's hands were subsequently determined to be a cellular telephone, cigarette lighters, a small bottle of hand sanitizer, and some loose change.

Witness 1 recalled that as the officers moved in on Subject 1 and he began to rise up. Witness 1 said one of the officers struck Subject 1 on the back of the head with a handgun. Witness 1 said the strike looked "intentional." In an attempt to better describe the strike, Witness 1 used a hammering motion during his FID interview in order to demonstrate the officer's movements with the handgun.

Officers G and H drove to the location of the altercation and notified CD they were assisting officers involved in an altercation. Subject 1 was combative with the officers and grabbed at them as they attempted to force his arms behind his back and handcuff him.

Subject 1 was eventually handcuffed. He continued to struggle and kick and the officers subsequently used a Hobble Restraint Device (HRD) to further control him. An RA was requested by the officers in order to evaluate, treat, and transport Subject 1.

One of the first supervisors to arrive on scene was Officer K. Officer K retrieved a digital camera from his/her vehicle and took four photographs of Subject 1. One of the photographs showed what appeared to be a bleeding injury on the back of Subject 1's head, near the crown.

The BOPC was critical of the tactics utilized by Officers D and E. The cumulative tactical errors and decisions by Officers D and E compounded to make their performance seriously deficient, requiring AD. The BOPC directed Officer D and E's CO to schedule them for training at TD.

The BOPC found Officers A's use of lethal force (the strike to Subject 1's head with a pistol) to be out of policy, warranting administrative disapproval. The BOPC considered all available evidence, including the descriptions of the strike provided by Officer A and Witness A, and found that the preponderance of the evidence establishes that Officer A intentionally struck Subject 1 in the head with his pistol. Subject 1's actions at the time of the strike did not present a threat of serious bodily injury or death, and would not have warranted such a use of force.

Officers F, G, H, I, and J's tactics were in policy requiring no action. Officers D and E's Drawing, Exhibiting and Holstering of their weapons were in policy requiring no action. Officers D and J's Non-Lethal Uses of Force were in policy with Divisional Training. Officers E, G, H, and I's Non-Lethal Uses of Force were in policy requiring no action. Additionally, Officer H's Less than Lethal Use of Force was in policy requiring no action.

As a result of the AD findings, personnel complaint CF No. 07-002055 was initiated. Subject 1 filed an allegation against an unknown officer who he alleged kicked and beat him. The Department adjudicated this allegation as "Unfounded." Additionally, the Department framed two allegations against Officer D for unauthorized Tactics and for the out of policy finding as to the Lethal Use of Force. The Department adjudicated these two allegations as "Sustained." The penalty imposed for Officers D was an Official Reprimand. The Department also framed an allegation against Officer E for unauthorized tactics, which was "Sustained". The penalty imposed for Officers E was an Official Reprimand.

The penalties imposed for Officers D and E appear to be within the Department's Guidelines, in light of the fact that a review of both officers' complaint histories revealed no prior sustained complaints for Tactics or the Lethal Use of Force.

### **OIS No. 025-08**

This case involved a negligent discharge. Officer A was off-duty, sitting on the couch in the living room of his/her apartment. Officer A was preparing to clean his/her Smith and Wesson .38 caliber revolver. He/she emptied rounds from the weapon into his/her hand, and then closed the revolver's cylinder without visually ensuring that all the ammunition had been removed from the weapon.

Officer A then pulled the revolver's trigger once, intending to "dry-fire" the weapon. However, this action caused the round that remained in the weapon to discharge. Following the discharge, Officer A opened the revolver's cylinder and ejected the expended casing. He/she then checked for damage and observed a hole in his/her wall. Officer A went to the door of the neighboring apartment to check on the welfare of any occupants. No one was injured during the incident.

In the analysis of this incident, the BOPC noted two considerations: First, Officer A did not visually inspect the revolver to ensure it was empty. Officer A should have visually inspected the cylinder prior to closing it, thereby ensuring the weapon was rendered safe. The second consideration was that Officer A altered the condition of his/her revolver. Once the unintentional discharge occurred, Officer A should have holstered his/her revolver without manipulating it. By opening the cylinder of the revolver and removing the spent casing, Officer A unnecessarily altered the condition of the weapon.

The BOPC was critical that Officer A failed to perform an adequate inspection of his/her revolver prior to practicing with the weapon. An ND is a serious incident that cannot be mitigated. The BOPC found Officer A's Unintentional Discharge to be Negligent, warranting AD and requiring Extensive Retraining. The BOPC directed the CO to schedule Officer A for additional firearms training at Training Division.

As a result of the AD finding, personnel complaint CF No. 08-001069 was initiated. The Department framed one allegation against Officer A for negligently discharging his/her revolver. The allegation was sustained and the Chief of Police imposed a penalty of an Official Reprimand for Officer A. The penalty imposed appears to be within the Department's Guidelines, in light of the fact that a review of the officer's complaint history revealed no prior sustained complaints for negligently discharging a firearm.

### **OIS No. 047-07**

This case involved an OIS of a person (Subject 1) who walked into a church and threatened numerous persons inside with a sword. Subject 1 struck one victim on the arm with the sword. He then smashed several windshields on vehicles that were parked outside the church and then returned to the church and set numerous fires inside the structure. A radio call was generated and responding units observed Subject 1 fleeing on foot into a tunnel, which is adjacent to the church grounds. After an extensive search of the area, Subject 1 was not found.

The next day, Detective A and Officer B discussed the incident that had occurred in the area. Detective A and Officer B gathered information about the crime and decided to go look for Subject 1, while in plainclothes and driving an unmarked vehicle. Detective A and Officer B

walked under the overpass of a nearby freeway and observed an access hole to the interior portion of the bridge. Detective A and Officer B were able to reach the hole and pull themselves into the crawlspace of the bridge. Detective A and Officer B traversed through the confined crawlspace by negotiating through three cells for a distance of approximately 285 feet. Detective A and Officer B observed an area in the fourth cell which contained gathered debris and a makeshift curtain across the crawlspace. Detective A identified himself as a police officer and, after no reply, moved the curtain to see behind it. A large knife slashed downward, narrowly missing Detective A's face. Detective A observed a raised knife along side of Subject 1's face. Detective A, fearing that he was about to be struck with the knife, fired one round at Subject 1 to prevent further attack.

Detective A pulled the curtain aside and saw Subject 1 was bleeding from the head. Detective A told Officer B to use his radio to request additional units and an RA. The first unit to arrive was an area sergeant, Sergeant C. Los Angeles Fire Department firefighters arrived on the scene and examined Subject 1, who was determined to be deceased.

The BOPC noted that Detective A and Officer B conducted an extensive search for Subject 1, who was a known armed violent felon, with no additional resources. Detective A and Officer B were working in plainclothes and were not wearing ballistic vests or raid jackets while performing this self-initiated field activity. Detective A and Officer B entered the internal portion of the bridge and traversed approximately 285 feet through various crawlspaces, without advising CD of their updated status and location.

Once Detective A and Officer B were on the nature trail and prior to entering the internal portion of the bridge, providing CD with an updated location would have been tactically prudent. Had Detective A and Officer B become incapacitated for some reason, it would have been extremely difficult, if not initially impossible to locate them while inside of the bridge crawlspace.

The investigation revealed that Detective A had left his assigned radio in his police vehicle. If Officer B had become incapacitated during the course of the incident, Detective A would have been unable to contact CD.

Finally, the BOPC noted that Subject 1 was not handcuffed after the OIS. Although it appeared clear that Subject 1 was incapacitated, it would have been tactically prudent for him to be handcuffed. The BOPC determined that Detective A and Officer B's tactics were severely deficient, requiring AD. The BOPC directed the CO of the area to provide and document the appropriate training to those employees.

The BOPC determined that Detective A and Officer B had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary. The BOPC found Detective A and Officer B's drawing in policy, requiring no further action.

The BOPC noted that Subject 1 utilized a large knife to slash at Detective A. Fearing that he/she was about to be attacked again, Detective A fired one round at Subject 1. The BOPC determined that Detective A believed that Subject 1 presented an immediate threat of serious bodily injury or death. The BOPC found Detective A's use of lethal force in policy, requiring no action.

As a result of the AD findings, personnel complaint CF No. 07-006380 was initiated. Additionally, Suspect 1's family alleged that Detective A caused his wrongful death. Two allegations were framed against Detective A for unauthorized force and unauthorized tactics. The unauthorized force allegation was classified as Exonerated. The COP sustained the tactics allegation and imposed a penalty of a 1-day Suspension for Detective A. The penalty imposed appears to be within the Department's Guidelines, in light of the fact that a review of the officer's complaint history revealed no prior sustained complaints for tactics during the last five years.

The Department framed one allegation against Officer B for utilizing deficient tactics which led to an OIS. The COP sustained the tactics allegation and imposed a penalty of an Admonishment for Officer B. The penalty imposed appears to be within the Department's Guidelines, in light of the fact that a review of the officer's complaint history revealed no prior sustained complaints for tactics during the last five years.

### **OIS No. 095-07**

This case involved an accidental discharge of a weapon which occurred when an officer was in the processing of cleaning his/her Department issued weapon, while off-duty at home. In preparing to clean the weapon, the officer attempted to remove the magazine from the weapon and experienced difficulty in removing the magazine. The officer next exerted force to pull the magazine from the pistol and during the process, his/her left hand slipped from the magazine and some portion of the hand made contact with the trigger. The weapon discharged and one round hit the officer in the left calf.

The BOPC found that the officer was negligent in the handling of his/her weapon as the officer failed to adhere to basic Department firearm safety rules when he/she handled the weapon.

As a result of the AD findings, personnel complaint CF No. 08-001935 was initiated. The Department framed one allegation against the officer for negligently discharging his/her pistol, which resulted in an injury. The allegation was sustained and the Chief of Police imposed a penalty of an "Official Reprimand" which appeared to be within the Department's Guidelines, in light of the fact that a review of the officer's complaint history revealed no prior sustained complaints.

## **VI. TEAMS II Reports**

During our review of the CUOF cases included herein, we noted that in two of the cases the officers' TEAMS II reports were not accurately updated to include the correct status of the CUOF cases or the Commission's findings.<sup>15</sup> We forwarded these issues to the Department and they were remedied.

## **VII. Conclusion**

Overall, the OIG noted that the narcotic related misconduct cases reviewed for this Report were properly investigated, except as noted for CF No. 08-000746. And, although the Department is fully aware of its duty to investigate and adjudicate these cases in a thorough manner, as part of its normal investigative protocols, we suggest that the Department continue to improve upon its methodology for identifying unknown accused officers.

Last quarter, the OIG noted that the number of OOS cases decreased from 13 to seven and this quarter, the number fell from seven to six. The OIG would like the Department to continue to identify and take action to prevent cases from falling OOS in the future. Finally, we found that the Department issued appropriate penalties in all of the other CUOF cases reviewed.

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<sup>15</sup> OIS No. 025-08, and OIS No. 095-07.