LOS ANGELES POLICE COMMISSION

Review of the Department's Quarterly Discipline Report Second & Third Quarter 2011 Public Version

Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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Inspector General

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REVIEW OF THE DEPARTMENT'S QUARTERLY DISCIPLINE REPORT
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I. INTRODUCTION

Each quarter, the Los Angeles Police Department (LAPD or Department) publishes a Quarterly Discipline Report (QDR) regarding employee discipline imposed in connection with internal investigation cases closed during a specific calendar quarter and any discipline imposed for any Categorical Uses of Force (CUOF) found to be out of policy. The Department submits the QDR to the Board of Police Commissioners (BOPC or Commission), which then generally directs the Office of Inspector General (OIG) to conduct a review of the report.

In this report, the OIG reviews the Department's QDRs for the Second Quarter (2Qtr) and Third Quarter (3Qtr) of 2011. The Department traditionally produces a QDR each quarter. On December 13, 2011, the Department presented its 3Qtr QDR. As of that date, the Department had not submitted its 2Qtr QDR. When informed of this error, the Department immediately submitted the missing QDR on January 23, 2012. Because two QDRs were presented to the OIG within a short period of time, the OIG consolidated its review process into this report.

II. CHANGES TO THE QDR REVIEW FORMAT

Beginning in 2004, the BOPC received the Department's QDR and directed the OIG to review the report and submit an analysis, which included comment on the appropriateness of discipline imposed by the Department for sustained allegations of misconduct. The Department previously published a disciplinary standard for Department personnel in its Management Guide of Discipline (Guide). While this Guide was in effect, the OIG was able to compare the discipline the Department administered in a particular case against the written standards published in the Guide and then offer informed comment to the BOPC regarding the appropriateness of this discipline.

Several years ago, the Department replaced the written disciple standard with a less structured system of discipline that allowed command officers to individually tailor discipline to each employee and each offense. To date, the OIG is unaware of any standards employed in administering this new system of discipline. The discontinuation of a defined standard for discipline substantially limits the OIG's ability to evaluate or meaningfully comment on the appropriateness of any Department imposed punishment or the effectiveness of this new system of discipline.

The OIG traditionally performed a case review of the Department's QDR. That is, the OIG conducted a detailed review of the misconduct investigation process for several selected cases, offered suggested modifications in the investigation and adjudication processes, and noted areas where the OIG disagreed or concurred with the Department concerning the investigation. This review focused primarily on the investigative process. The BOPC recently requested the OIG to redefine the QDR review in order to focus on the discipline imposed on Department personnel. Because the Department no longer has a written discipline standard for its personnel, the OIG's review of discipline imposed will necessarily be limited. Therefore, the OIG will attempt to fulfill its mandate by highlighting certain instances of discipline that may be of interest to the Commission.

III. CONDITIONAL OFFICIAL REPRIMANDS

A. General Definitions

The OIG has observed the Department's increasing use of Conditional Official Reprimands (CORs) as a form of discipline. This form of discipline is not defined in any Department literature and therefore the OIG cannot define CORs with any level of certainty. The OIG, however, believes that a COR is a written notice to an offending employee that no additional discipline will be imposed for an immediate offense provided that the employee not commit additional misconduct with a specified period of time. The OIG believes that a subsequent violation while on COR may result in discipline ranging from a five-day suspension to recommended termination before a Board of Rights.

Although the OIG does not fully understand the contours of CORs, the Department indicated that a detailed report related to this method of discipline would be provided to the Commission in the immediate future.

B. COR Data in This QDR

The OIG reviewed the Department's 3Qtr QDR for information related to CORs. In the QDR, the Department noted that the disposition of 120 allegations of misconduct were either sustained or guilty. The QDR further notes that 43 of the 120 sustained allegations list the penalty as Official Reprimand (OR). The QDR, however, does not identify what portion of these OR punishments are conditional. Without such information, it is difficult to evaluate the Department's use of CORs. As such, the OIG again recommends that the Department distinguish in its QDRs between ORs and CORs.

By searching in the Department's TEAMS II database,[1] the OIG determined that 24 of these 43 reprimands were CORs. The 24 COR penalties represent 20% of the total number of allegations resulting in penalties.

The OIG reviewed the facts and circumstances related to each of these 24 CORs and summarized each case in the table below.

Table 1: Fact summaries resulting in CORs as reported in 3Qtr QDR

Case No. & Rank	Allegation	Fact Summary	Term[2]
Sworn Employees			
11-000834 PO II	Failure to Appear	Officer failed to appear in court as required	3y / 10d
10-001895 PO I	False Statement	On duty officer broadcast inaccurate information and submitted an inaccurate Daily Field Activities Report	5y / 5d
10-003646 PO I	Neglect of Duty	On duty officer failed to properly maintain control of Department equipment, resulting in its loss	5y / 5d
10-001996 PO II	Neglect of Duty	On duty officer failed to take a report as required	5y / 5d
10-002782 PO II	Discourtesy Ethnic Remark	Off duty officer sent text messages with inappropriate ethnic remarks	5y / 10d
10-001895 PO I	False Statement CUBO[3,4]	On duty officer used profanity in public and submitted an inaccurate Daily Field Activities Report	5y / 10d
10-001895 PO II	False Statement CUBO	On duty officer used profanity in public; broadcast inaccurate information; and submitted an inaccurate Daily Field Activities Report	5y / 10d
10-001864 SGT I	Improper Remark CUBO	On duty officer made an improper remark; improperly accessed personnel information; and became aggressive with supervisor when asked about the file access	5y / 10d
11-000262 PO III	Neglect of Duty	On duty officer repeatedly failed to notify chain of command in a timely manner regarding duty status	5y / 10d
10-002528 PO II	CUBO	Off duty officer involved in domestic violence that resulted in arrest by an outside law enforcement agency	5y / 15d
10-002545 PO II	Off Duty Altercation	Off duty officer involved in physical altercation with a citizen, resulting in the response of on duty officers from an outside law enforcement agency	5y / 15d
10-001745 SGT II	Domestic Violence CUBO	Off duty officer involved in domestic violence, resulting in the response of an outside law enforcement agency. Officer also provided conflicting statements to Internal Affairs investigators during an official Department investigation in the domestic violence	E / 22d

[1] TEAMS is an acronym for the Training Evaluation and Management System database.

[2] Values in this column expressed first as the number of years (y) that the condition remains in effect, or alternatively that the condition remains forever (E), followed by the penalty imposed if the same or similar act recurs, usually days (d) suspended from duty, or alternatively directed to a Board of Rights (BoR) hearing.

[3] Acronym for Conduct Unbecoming an Officer.

[4] Department Manual Vol. 1 § 210.35, Conduct Unbecoming An Officer (*see* Appendix Pg. a for full text of this section).

09-004310 PO II	Misleading Statement Neglect of Duty	On duty officer went jogging and failed to remain available to respond to calls for service and then gave a misleading statement to a Department supervisor	E / 22d
09-004726 PO III	Off Duty Altercation CUBO	Off duty officer involved in altercation resulting in the response of LAPD officers and attempted to leave the scene of an employee-involved crime	E / 22d
09-004726 PO III	Off Duty Altercation CUBO	Off duty officer involved in altercation resulting in the response of LAPD officers and attempted to leave the scene of an employee-involved crime	E / 22d
09-004726 PO III	Off Duty Altercation CUBO	Off duty officer involved in altercation resulting in the response of LAPD officers and attempted to leave the scene of an employee-involved crime	E / 22d
10-002836 SGT I	Sexual Misconduct	Off duty officer solicited an act of prostitution	E / 22d
09-004227 PO II	CUBO	Off duty officer initiated inappropriate social relationship with a felony arrestee and wrote a letter of reference for arrestee identifying self as Department employee	E / 22d
11-000376 PO II	Alcohol Related	On duty officer under the influence of alcoholic beverage.	E / BoR
10-001976 PO I	Alcohol Related	Off duty officer operated motor vehicle under the influence of alcohol, resulting in arrest by on duty officers from an outside law enforcement agency	E / BoR
10-001051 SGT I	Discourtesy CUBO	Off duty officer involved in a traffic dispute, resulting in the response of on duty officers from an outside law enforcement agency	E / BoR
10-001879 PO III	Unauthorized Force	On duty officer inappropriately squeezed victim's nose, causing a visible bruise, and grabbed victim's ears	E / BoR
Civilian Employees			
10-001986 Supervising Criminalist	CUBO	Off duty employee sent inappropriate text messages, email, and electronic photographs of a sexual nature to a coworker	5y / 5d
10-003198 Det. Officer	Neglect of Duty	On duty employee failed to complete the 30-minute cell checks between the hours of approximately 1130 and 1300 hours	5y / 10d
10-003198 Det. Officer	Neglect of Duty	On duty employee failed to complete the 30-minute cell checks between the hours of approximately 1130 and 1300 hours	5y / 10d
10-003198 Det. Officer	Neglect of Duty	On duty employee failed to complete the 30-minute cell checks between the hours of approximately 1130 and 1300 hours	5y / 10d
10-002672 Secretary	Dishonesty Neglect of Duty	On duty employee repeatedly failed to remain on duty until employee's actual end of watch (EOW) and inaccurately documented EOW times	E / 10d

The OIG performed a similar analysis of the Department's 2Qtr QDR. In that QDR, the Department listed 107 allegations with a disposition of Sustained or Guilty. Of the 107 allegations, 24 list a penalty of OR (22%).[5] Of the 24, 15 were CORs and 8 were ORs.

Based on the variety of fact scenarios from both QDRs, the OIG is unclear what categories of misconduct qualify for CORs. Without additional information, the OIG is unable to evaluate the Department's choice of discipline.

[5] The difference in % of CORs from 2Qtr (22%) to 3Qtr (35%) appears due at least in part to considerably more "Unable to Impose Penalty" dispositions in 2Qtr (29, or 27%) compared to 3Qtr (19, or only 16%).

C. TEAMS II COR Modifications

The OIG noted that the Department recently made several important modifications to TEAMS II regarding CORs. First, we noted that an employee's Discipline Information section now identifies a COR which has been imposed, where previously only "OR" showed for both CORs and ORs. Second, we noted that TEAMS II now provides a hyperlink from the Discipline Information page revealing the condition imposed and the term of the condition.

IV. DISCIPLINE FROM CUOF FOUND OUT OF POLICY

During 2Qtr, the Department closed one CUOF incident adjudicated by the Commission as out of policy which resulted in the imposition of discipline:

Case 031-07 / CF No. 07-001673 – Unintentional Discharge[6]

The BOPC found that an officer's unintentional discharge of a shotgun during a safety inspection was the result of operator error and required a finding of Administrative Disapproval – Negligent Discharge. As a result of the finding, a personnel complaint was initiated against the officer which resulted in a one-day suspension from duty. The officer had no prior discipline imposed.

During 3Qtr, the Department closed one CUOF incident adjudicated by the Commission as out of policy which resulted in the imposition of discipline:

Case 051-10 / CF No. 11-001834 – Officer-Involved Shooting, Hit[7]

The BOPC found that a detective's first three rounds of shotgun fire at an armed robbery suspect were in policy but that the discharge of three subsequent rounds was out of policy. As a result, a personnel complaint was initiated which resulted in an Official Reprimand.

The OIG noted that in a 2009 officer-involved shooting, hit, the BOPC found the same employee's first two rounds of shotgun fire at an armed robbery suspect were in policy but that the discharge of four subsequent rounds was out of policy. As a result, a personnel complaint was initiated which resulted in an Official Reprimand.

Also, the same employee received an Official Reprimand in 2006 as a result of a BOPC finding of unauthorized tactics in an officer-involved shooting.

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[6] *See* Appendix Pg. a for complete redacted report of 031-07.

[7] *See* Appendix Pg. c for complete redacted report of 051-10.

There appears to be a disparity in treatment between the two officers. The officer with no history of CUOF received a one-day suspension for his non-tactical, negligent discharge, whereas the officer who has multiple CUOF violations received no such suspension. The factual circumstances surrounding these two officers' misconduct further highlight the apparent disparity in punishment. The officer who received the one-day suspension operated his weapon negligently but in a relatively controlled environment. In contrast, the other officer repeatedly shot at individuals in situations that the BOPC determined to be unjustified. However, this officer received the lighter punishment of OR for each of his three incidents of misconduct.

In response, the Department advised that Command did not issue the OR for the 2009 OIS until 11 months after the 2010 OIS (051-10) occurred.[8] Because the employee did not have advance notice that his first OIS constituted out of policy action, which the first OR would have provided, the second out of policy OIS did not prompt a stronger penalty.

The OIG, however, suggests that there is a qualitative difference between behavioral misconduct and out of policy CUOF. Sworn officers are subject to extensive and continuing training in use of force, and proficiency in use of force is a focal point in officer performance, particularly lethal use of force. Behavioral conduct is also a subject of officer training, but to a lesser degree, and therefore officers may require notice that a particular behavior constitutes misconduct, and repeated acts will result in progressive discipline. Also, out of policy uses of force may result in civil liability, which is rarely true for behavioral misconduct. Therefore, all out of policy uses of force could be subject to discipline, without the employee first being given notice. Moreover, the officer in 051-10 was assigned to a work unit that appears to require above average ability in tactics and use of force, to the point the employee effectively had notice of expected performance at the time of selection.

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[8] The OIG presented a draft copy of this report to the Department on February 24, 2012, for review and comment.

V. PREVENTABLE TRAFFIC COLLISIONS

A. Traffic Collision Policy Revisions

In reviewing both QDRs, the OIG noted a substantial drop in misconduct complaints arising from Preventable Traffic Collisions (PTCs).[9] As set forth in the table below, the number of misconduct complaints in this area dropped from 209 in 2009 to 0 in 2011.

Table 2: PTC complaints generated, Second &Third Quarter 2009-2011[10]

PTC Misconduct Complaints		
	Q2	Q3
2009	129	80
2010	2	2
2011	0	0

This dramatic statistical shift in the number of complaints is the result of a revision of the Department traffic collision policy. Formerly, the Department policy required that when an employee was involved in a PTC, the Department would automatically initiate a misconduct complaint against the involved employee. According to disciplinary results published in the QDR, a majority of the complaints resulted in a sustained allegation of PTC and would be adjudicated for a penalty by the employee's Chain of Command.

In 2007, the BOPC directed the Department to consider a revision of the PTC policy, with a goal of eliminating misconduct complaints against employees for minor "fender-bender" level collisions.[11] The BOPC envisioned a policy that would allow the Department to focus disciplinary efforts on more serious issues. On June 5, 2007, the BOPC approved the Department's draft policy revision that eliminated the *per se* opening of a complaint for all PTCs and instead created a point system. This draft policy was formalized on November 4, 2008, with the BOPC's approval of Special Order No. 45 (SO 45).[12,13]

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[9] Although not specifically defined in Department policy, a "preventable" collision is one in which a Department employee is at fault.

[10] Partial data and table from QDR, page 10 (omitted data regarding Failure to Appear and Failure to Qualify).

[11] BOPC policy revision goals as recounted by Commissioner Alan Skobin during BOPC meeting of October 25, 2011, Agenda Item 8H, Department's Report on Preventable and Non-Preventable Traffic Collision Inspection, transcript by Lynden J. & Associates, Inc.

[12] Codified in part as Department Manual Vol. 3 § 207.95, Point System Criteria.

[13] *See* Appendix Pg. u for complete text of Special Order 45 (2008).

Special Order 45 required the Department to assess the seriousness of an employee's traffic collision and then assess points, which would be tracked on an employee's record. Under this Special Order, there are essentially three levels of traffic collisions:

> Level One collisions (1 point) occur when vehicle speed is 10 miles per hour or less; there is no disregard for safety; and there are no visible injuries;
>
> Level Two collisions (2 points) occur when vehicle speed is in excess of 10 miles per hour; the employee is in essential compliance with the Vehicle Code; there is no disregard for safety; there are no life-threatening injuries; and the City vehicle is repairable;
>
> Level Three collisions (4 points) occur when the City vehicle is not repairable; or there is a life-threatening injury; or the employee is not in essential compliance with the Vehicle Code.
>
> All accrued points remain countable for 36 months.

An employee's involvement in a PTC, regardless of severity, does not necessarily result in disciplinary action. Even a fatal PTC does not result in automatic complaint against the employee. An employee who accumulates 3 or more points within a 24 month period is directed to additional driver improvement training. Also, employees may voluntarily attend driver training and have 1 point deducted but may do so only once every 24 months.

Under SO 45 a complaint will be initiated against an employee for collisions not covered under the point system.[14] These conditions include, but are not limited to, gross negligence, consumption of alcohol or drugs, reckless driving, or collisions resulting in a criminal filing against the employee. In our research of PTC data for this review, we located no collisions which the Department classified as occurring under these conditions.

Further, SO 45 does not apply to actions of an employee incidental to a collision, including failure to wear a safety belt. Therefore, a complaint could be initiated for failure to comply with the Department safety belt policy,[15] even when a collision is found to be non-preventable. Although many of the PTCs involve officers violating the Department's safety belt policy, the OIG is aware of only one complaint initiated for failure to wear safety belts.

Also, SO 45 directed that all points assessed from a PTC be tracked in the Department's TEAMS II database. Because TEAMS II is presently not capable of tracking the points, the Department's Traffic Coordination Section (TCS) tracks them.

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[14] Special Order 45, Section III**,** Point System Exceptions.

[15] Department Manual Vol. 4 § 289.

B. Application of the PTC Policy to Severe Injury Collisions

The 2Qtr and 3Qtr QDRs indicated that there were no instances of discipline for PTCs. The OIG therefore decided to analyze several PTCs in order to determine whether the results of SO 45 are conforming to the BOPC's intent on traffic collisions. The OIG contacted the Department's Traffic Coordination Section (TCS) and obtained data on all traffic collisions resulting in severe injury that occurred between January 1, 2009, and June 30, 2011. The TCS provided the OIG with data on 9 collisions. The OIG included an additional traffic collision in its review for a total of 10 collisions. A summary of these 10 collisions follows:[16]

Table 3: PTCs resulting in severe injury, 1/1/09 – 06/30/11

Case	Level Assigned by Department	Fact Summary[17]
Case A	Level 1	On duty officer was at fault for entering a signal-controlled intersection against a red light, striking a bicyclist. Bicyclist sustained a fractured right tibia and experienced pain to chest and abdomen. Civil lawsuit filed; case proceeding to trial. Minimal damage to police car; repair cost: $960.[18]
Case B	Level 2	On duty civilian at fault for driving a police motorcycle through a narrow gate, striking his foot and the vehicle's foot peg on a metal post. Employee suffered a broken left fibula. Employee medical costs: $12,000 Minor damage to police motorcycle; no repair costs.
Case C	Level 2	On duty officer at fault for driving against a red light through a controlled intersection while responding to a stolen vehicle call and causing a collision with another vehicle. Officer A sustained abrasion on the head and complained of neck and head pain. Officer B suffered a fractured right hand and complained of pain to his right shoulder, rib case, and arm. Employees' medical costs: $25,000. Major damage to police car; total loss, value $13,670. Major damage to other vehicle.

[16] In past QDR reviews, the OIG has limited our analysis to only events which occurred during the quarter being examined in the QDR. We are now using the information in the QDR as a starting point to provide what we hope considers topical information more broadly, rather than viewing only time-limited information.

[17] Complete case facts and analysis are provided in the Appendix, Pgs. h-t.

[18] Repair cost figures rounded to the nearest $10; medical costs rounded to the nearest $100.

Case D	Level 2	On duty officer at fault for unsafe backing when, after transporting 2 other officers in his open trunk and coming to a brief stop, the officer backed the police car without warning, striking another police car and crushing a foot of one officer between the cars. Officer sustained severe injury to his foot. Employee medical costs: $500.
Case E	Level 3	On duty officer at fault for unsafe speed when, while responding Code 3 to a back-up call, lost control while making a right turn, causing the police car to go over the curb and strike a tree. Officer A suffered fractured arm. Officer B sustained a one-inch laceration to the head and complained of pain in hand and leg. Employees' medical costs: $11,000. Major damage to police car; total loss, value $16,200.
Case F	Level 3	On duty officer at fault for unsafe speed; while responding Code 3 to a traffic collision, lost control of the police car making a left turn, causing the police car to jump the curb and strike a building, shearing off a parking meter which then struck a nearby pedestrian. Pedestrian suffered multiple facial fractures and several abrasions to his knee. Officers sustained minor injuries. Employee medical costs: $1,300. Moderate damage to police car. Civil lawsuit filed; case proceeding to trial.
Case G	Level 3	On duty officer at fault for not operating Code 3 with due regard for safety. The officer entered an intersection against a red signal, struck another police car and then collided into two additional vehicles. Two civilians sustained minor injuries. Supervisor A sustained broken pelvis, broken ribs, and collapsed lung. Officer A complained of head pain. Employee medical costs: $106,000. Major damage to both police cars; one vehicle total loss, value $8,580. Moderate damage to both other vehicles. Civil lawsuit filed; case proceeding to trial.
Case H	Level 3	On duty officer at fault for unsafe speed for conditions. The officer rear-ended another vehicle on the freeway, causing that vehicle to strike a third vehicle which had stopped due to traffic congestion. Officer sustained hairline fracture to left shoulder. Employee medical costs: $16,000. Major damage to front end of police car; minor damage to both other vehicles.

Case I	Level 3	On duty officer at fault for driving on the sidewalk after observing a subject tagging a building and subsequently struck the pedestrian with his vehicle. Civilian suffered fractured neck and lower back; a lacerated spleen; and abrasions to his head, leg, and hand. Minor damage to police car; total cost $1,060. Civil lawsuit settled.
Case J	Level 2 Related to Case I	Undetermined party at fault for failure to stop for red signal when on duty officer responding as backup to a man with a gun call at 2250 hours on a Sunday night is struck in the intersection by a vehicle turning left; determined to be preventable by command officer. (Same driver officer as Case I.) Civilian sustained minor injuries. Moderate damage to police car; total cost $6,270. Moderate damage to other vehicle.

C. Severe Injury PTC Review Issues

The OIG noted several points from our review of these collisions:

1. Severe injury PTCs are generally not resulting in misconduct complaints or disciplinary action. Case I was the only severe injury PTC which resulted in the imposition of discipline, a COR. Even in that case, which involved the extraordinary act of driving on the sidewalk at 5:40 p.m. to capture a suspect for a misdemeanor violation, the involved officer's Area Command Officer found the driving officer's actions reasonable. The Bureau Command Officer took exception and militarily endorsed a finding of improper tactics, with which we concur. In total, however, we do not believe the elimination of discipline for even severe injury PTCs comports with the BOPCs stated intent to eliminate discipline for *minor* PTCs.

2. Special Order 45 contains problematic wording. For example, in Case A, we believe the Department erroneously determined the collision to be Level One, despite the resulting severe injury to a bicyclist struck by a police car. The policy criterion for a Level One Accident is one in which "no visible injury" results. The fracture in Case A was not visible and so a Level One classification might be proper. We suggest that the policy would better refer to the injury levels as defined in the Traffic Manual: complaint of pain, other visible, severe, or fatal, where severe is further defined, among other things, as "broken or distorted limb."[19] We further suggest that a Level One Accident should be one that results in no injury or only a complaint of pain.

[19] Department Traffic Manual Vol. 3 § 113A.

Also, in SO 45 the difference between point levels hinges upon whether an officer's actions were in "essential compliance" with the Vehicle Code. It is unclear what this term means and SO 45 is silent on this matter. Without a definition, the qualifying term "essential" appears to simply create confusion and an uneven application of SO 45. The OIG is unclear how one can violate the Vehicle Code yet remain in essential compliance with it. Unless the term is defined, such an ambiguity could render the distinction between various levels meaningless.

Note: On March 13, 2012, the OIG met with TCS. During that meeting, TCS provided the OIG with suggested revisions to both SO 45 and the Department Manual involving PTC. The proposed revisions mirror many of the concerns identified in this report as well as identify additional concerns with the entire investigation and adjudication process regarding employee involved traffic collisions.[20] These proposed revisions were previously provided to the Department in 2009 and 2011.

3. An employee who accumulates 3 points in 24 months is directed to a formal standardized driver improvement training course. When we checked TEAMS II training records, we could not determine which standardized driving-related courses satisfied the SO 45 directed training requirement. We suggest a notation of "PTC Directed Training" in the "Reason for Training" column of TEAMS Training Information section.

4. In Case C, we believe the Department erroneously determined the collision to be Level Two. Special Order 45 directs that for a classification of Level Two, the City vehicle must be repairable. Here, the police car was a total loss, which should have resulted in the collision being classified as Level Three, and the driver officer directed to driver improvement training.

5. Despite the fact that all collision investigation reports are subject to supervisory review and approval, we noted errors, inconsistencies, or omissions on several of the reports, including:

    a. determining a primary collision factor unsupported by any parties' statement (Case A);

    b. indicating officers were wearing safety belts when the officers said they were not, incorrectly stating which car struck the other, and not clarifying when officer direction of travel was inconsistent with stated destination (Case C);

    c. failing to identify officer actions that were contributing factors to the collision (Case D);

    d. omitting to record (and presumably, to ask) involved officers of their speed prior to collision, when unsafe speed was identified as the primary collision factor (Cases E & F);

[20] Department Manual Vol. 3 §§ 205 et seq.

e. no notation from the Department's specialized investigation detail (SCID Team) whether they could determine approximate (or minimum) pre-impact speed after collecting and recording relevant data (Case F), where speed was the primary collision factor;

f. not resolving conflicting reports on whether an involved officer was or was not wearing a safety belt (Case G); and,

g. not identifying an associated factor of unsafe speed when conditions, and absence of driver officer's statement regarding speed, suggest it may have been (Case J).

Considering that these traffic collision reports are the source for employee point accumulation and potential discipline, damage claims, and, in some cases, litigation, it would seem prudent for investigators and reviewing supervisors to require detailed information and to eliminate, reconcile, or correct by supplemental report any errors.

Based on the review of the above collisions, the OIG notes that the PTC policy does not appear to comport with the BOPC's stated desire to eliminate discipline for "fender bender" or minor collisions. The BOPC may wish to consider whether a more detailed Department report on PTCs would be helpful in consideration of the issue.

D. Safety Belt Considerations

While Department policy requires safety belt use for its officers, the OIG found compliance with policy was inconsistent among uniformed patrol officers. Our sample included 5 collisions involving marked police cars likely traveling over 10-15 miles per hour (Cases C, E, F, G, J). In those 5 cases, 4 of 6 officers not wearing safety belts sustained some level of injury, with 2 sustaining fractures. Of the 4 officers wearing safety belts, 3 sustained only complaint of pain.

We noted that patrol officers not using safety belts offered reasons which they may have mistakenly believed were allowed by policy.[21] Officers cited impending contact with suspects, despite clearly expecting to travel some distance before any such contact would occur. We also noted that although none of the officers in our sample received any discipline for failing to use safety belts, we are aware of officers receiving discipline in a collision that resulted in a fatality.

We suggest that penalties for non-compliance with safety belt policy should not be based upon whether a collision results in injury or the severity of any such injuries.

[21] Department Manual Vol. 4 § 289, Safety Belts in Department Vehicles, directs that, "Employees and all others operating or riding in Department vehicles *shall* wear three-point safety belts when provided" (emphasis added). Further, the policy addresses the concern of removing safety belts prior to contacting suspects, directing that, "Officers may remove their safety belts *immediately prior* to stopping a suspect" (emphasis added).

Several law enforcement related publications recently discussed the increase in police fatalities tied to failure to use safety belts. Both the National Law Enforcement Officers Memorial Fund[22] and the National Highway Traffic Safety Administration reported on increased officer deaths from reduced safety belt use.[23] Further, the California Peace Officers Association asserted that, "all too often, officers die in traffic collisions because they drive too fast and they don't wear seat belts – two things they, and we, can control."[24]

From a safety and cost management consideration, the OIG suggests the Department consider means to improve proper seat belt use among police officers.

E. Collision Classification Backlog

While collecting data, the OIG noted an apparent backlog in the classification and disposition of traffic collisions. The TCS provided the OIG with an "Overdue Status Report," listing all employee-involved collisions in which the involved employee's Commanding Officer (CO) has not determined the collision to be a PTC or non-PTC. Special Order 45 directs that employee involved collision reports be forwarded within five working days of the collision to the involved employee's CO. The CO then has 30 calendar days to review the employee's TEAMS II report, meet with the employee to advise them of the determination as PTC or non-PTC, and then return all reports to TCS.

We noted that the Overdue Status Report listed 322 collisions awaiting determination (as of February 13, 2012). We also noted that 27 of the 322 reports were more than 900 days overdue. We suggest that the Department inquire as to the number of overdue reports, to identify how so many reports remained unclassified, and to take steps to ensure collision classification be completed as required by SO 45.

Finally, we are concerned that if any of the unclassified collisions resulted from employee misconduct, that the Department's ability to assess discipline may have been forfeited due to the lapse of applicable statutes of limitations.

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[22] "Traffic-related Fatalities: 2011," Research Bulletin, Law Enforcement Officer Deaths: Preliminary 2011 Report, National Law Enforcement Officers Memorial Fund, available online at http://www.nleomf.org/assets/pdfs/reports/2011-EOY-Report.pdf (accessed 02.13.12).

[23] Noh, Erin Young, Ph.D., "Characteristics of Law Enforcement Officers' Fatalities in Motor Vehicle Crashes" U.S. Dept. of Transportation, Report No. DOT HS 811 411 (January 2011).

[24] Vila, Bryan, Ph.D. and Gustafson, Bryon G., "The On-Going Crisis: Officer-Involved Collisions, Why They Happen and What Can Be Done, California Peace Officer Magazine (Spring 2011), available at http://www.cpoa.org/CPOSpring2011/tabid/8945/Default.aspx (accessed 02.13.12).

Note: On March 13, 2012, TCS met with OIG and advised that the Department directed COs to address the backlog of unclassified collisions and report as directed to TCS. As of March 13, the number of overdue reports had been reduced to 230.

F. PTC Review Recommendations

The OIG suggests that the BOPC may wish to provide feedback regarding whether the application of SO 45 comports with the BOPC's original intent in revising Department policy to reduce discipline for employee involved traffic collisions. The BOPC might also request the Department to report to the BOPC on any proposed revisions to SO 45 and the Department Manual concerning the investigation and adjudication of employee-involved traffic collisions, employee safety belt use, and possibly to identify a specific goal for reduction of employee involved traffic collisions. The BOPC may also consider asking the Department Risk Manager to present additional strategies regarding employee involved traffic collisions.

VI. BOPC REQUESTED ITEMS

Upon receiving the 2Qtr QDR, the BOPC requested that the OIG research and comment on two specific items: the number of Valley Bureau sustained allegations and the drop in sustained complaints Department-wide.

A. Valley Bureau Sustained Allegations

On Page 20 of the 2Qtr QDR, Table S lists by Bureau the number of sustained allegations. The BOPC noted that the number from Valley Bureau, 73, was considerably greater than the number from any of the other three patrol bureaus. South Bureau had 17 sustained allegations, Central had 16, and West had 9. The BOPC requested the OIG attempt to determine any reason for the apparent disparity.

The OIG first reviewed the data presented in the 2Qtr QDR, searching for data that might explain the variance, but we found no key items. We then conducted case reviews of 10 cases from Valley Bureau, searching for any peculiarities in the investigations, the manner in which the allegations were framed, or any other item that might appear unusual, based on our collective review experience.

The reviewers found nothing unusual in the investigations reports. Each of the allegations was supported by the facts of the case. We found the investigations generally to be well conducted, and the adjudications to be properly based on the facts.

The OIG also consulted with Internal Affairs Group (IAG) and learned that IAG also had noticed the discrepancy in the number of Valley Bureau sustained complaints and conducted their own

review. Internal Affairs Group independently came to the same conclusion that the high number of sustained allegations for Valley Bureau appears to be simply an unusual statistical anomaly.

B. Drop in Total Sustained Dispositions

The BOPC noted that the number of misconduct allegations that the Department sustained has dropped significantly over the last few years. In 2009, the Department sustained 286 complaint allegations. The number of sustained complaints dropped to 204 in 2010 and then dropped to 141 sustained complaints in 2011. The BOPC requested the OIG to comment on this decline in sustained allegations.

In reviewing the QDR, the OIG noted that the biggest decline in sustained allegations occurred in the 5 categories depicted in the table below.

Table 4: Reductions in sustained allegations, 2009-2011

	2009	2010	2011	Difference[25]
Preventable Traffic Collisions	79	3	0	79
Neglect of Duty	74	80	48	26
False Statements	22	25	7	15
Failure to Appear	13	15	3	10
Failure to Qualify	9	8	1	8
	Total Reduction in Sustained Allegations from 2009-11: 138			

When we discussed with IAG the issue of fewer sustained allegations, they advised that per a policy revision, COs may address Failure to Qualify more by employee development than discipline.[26] Preventable Traffic Collisions are discussed elsewhere in this review (*see* Section V, *supra).* The BOPC may wish to request the Department to comment on reductions in the remaining three categories.

VII. RECOMMENDATIONS

After reviewing the Department's QDR, the OIG suggests to the Department the recommendations listed below.

Regarding Conditional Official Reprimands:

1. Present to the BOPC a report providing detailed information defining the terms, use, and tracking of the COR as a disciplinary resource (*see* page 2).

[25] From 2009 amount to 2011 amount. (2010 is added simply to show any trend in numbers.)

[26] *See* 2Qtr QDR, page 10, footnote.

2. Amend Department Policy to define CORs and instruct as to COR use (*see* page 2).

3. Modify the QDR to provide a clear distinction between an OR and a COR (*see* page 2).

Regarding Preventable Traffic Collisions:

1. Revise the Preventable Traffic Collision policy, including but not limited to:

    a. clarifying that a Level One accident applies only to non-injury or complaint of pain only, as opposed to the current language of no visible injury (*see* page 11);
    b. defining "essential compliance with the Vehicle Code" (*see* page 12);

2. Modify the "Training Information" section of TEAMS II, in the column entitled "Reason for Training," to identify when training is given as the result of SO 45, perhaps by a notation of "PTC Directed Training," and to identify when an officer voluntarily attends driver training in an effort to reduce accumulated points, perhaps by a notation of "PTC Voluntary Training" (*see* page 12).

3. Consider supplemental reports to correct inaccuracies in the PTC reports reviewed here (*see* page 13).

4. Consider means to improve compliance with Department policy concerning safety belt use by police officers, particularly patrol officers (*see* page 14).

5. Address the apparent backlog of unclassified employee-involved traffic collisions, and provide remedies to insure the processing of collision reports in compliance with SO 45 (*see* page 14).

6. Request the Department to report on proposed revisions to the investigation and adjudication of employee involved traffic collisions and strategies to reduce the number of employee involved traffic collisions (*see* page 15).

Regarding declines in sustained allegations, the BOPC may wish to ask the Department to comment on the reduction in sustained allegations for Neglect of Duty, False Statements, and Failure to Appear.

.

APPENDIX

From Section III. Conditional Official Reprimands, Page 4, Footnote 7
Department Policy Manual Volume 1 § 210.35

CONDUCT UNBECOMING AN OFFICER**.** A police officer is the most conspicuous representative of government, and to the majority of the people, the officer is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when the officer's actions are found to be excessive, unwarranted, or unjustified, they are criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of officers, on- or off-duty, may reflect directly upon the Department, officers must at all times conduct themselves in a manner which does not bring discredit to themselves, the Department, or the City.

From Section IV. Discipline From CUOFs Found Out of Policy, Page 6
Redacted CUOF Reports 031-07

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

NON-TACTICAL NEGLIGENT DISCHARGE 031-07

Division	Date	Duty-On(x) Off( )	Uniform-Yes(x) No( )
Devonshire	03/27/2007		

Involved Officer(s)	Length of Service
Officer A	12 years, 9 months

Reason for Police Contact
N/A

Subject(s)	Deceased ( )	Wounded ( )	Non-Hit ( )
N/A			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System

materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on November 13, 2007.

Incident Summary

Officer A was assigned to the front desk. As the desk officer, Officer A was required to complete a safety check of the shotgun assigned to the front desk. In completing this task, Officer A went to the rear of the police station and completed a six-point safety check of the sshotgun. While manipulating the shotgun, Officer A loaded a live shotgun shell into the chamber, turned the safety off, and pulled the trigger to the rear, discharging one round into the air.

No one sustained any injuries as a result of this incident.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

Does not apply.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Use of Force

The BOPC found Officer A's lethal use of force to be negligent.

Basis for Findings

A. Tactics

Does not apply.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Use of Force

The BOPC was critical that Officer A failed to adhere to the basic firearm safety rules while handling the shotgun. A negligent discharge is a serious incident that cannot be mitigated.

In conclusion, the BOPC found Officer A's lethal use of force to be negligent.

From Section IV. Discipline From CUOFs Found Out of Policy, Page 6
Redacted CUOF Reports 051-10

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

OFFICER-INVOLVED SHOOTING – 051-10

Division	Date	Duty-On(X) Off()	Uniform-Yes() No(X)
Foothill	06/24/10		

Involved Officer(s)	Length of Service
Detective A	20 years 4 months
Detective B	20 years 7 months
Detective C	17 years 1 month
Detective D	28 years 5 months

Reason for Police Contact
The Subject was suspected of being involved in a series of armed robberies. The detectives had stopped the Subject, in an effort to take him into custody, when an officer-involved shooting occurred.

Subject(s) Deceased () Wounded (X) Non-Hit ( )
Male, 24 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on June 7, 2011.

Incident Summary

Detectives obtained information regarding a series of robberies that had occurred at various check cashing stores. During one of the robberies, a witness obtained the license plate details of the Subject's vehicle.

Detectives responded to the address of the Subject and initiated a surveillance of his vehicle. Detectives A and B were in one vehicle, and Detectives C and D were in a separate vehicle. Detectives followed the Subject and observed him as he walked into a check cashing store. Once inside the store, the Subject committed a robbery, during which he threatened victims with a handgun.

The detectives then followed the Subject as he fled the location and ultimately forced the Subject to stop his vehicle.

According to Detective A, he exited the passenger side of his vehicle armed with his shotgun. Detective A had a clear view into the Subject's vehicle and recalled that the windows were rolled up, the side windows were clear and the rear windshield was tinted. As he exited his vehicle, Detective A stated, "Police, hands up." He could also hear other detectives yelling the same commands. According to Detective A, when they first stopped the Subject, his hands were on the steering wheel; however, he could not

see the Subject's right arm. As Detective A exited his vehicle, he observed the Subject with a handgun. Detective A further explained that the Subject's right arm came across the front of his body, and he could see that the Subject was holding a blue steel semiautomatic handgun in his right hand. It appeared to him that the Subject was pointing the gun in the direction of Detective B, and that the Subject was making eye contact with Detective B. Detective A, in fear for Detective B's life, fired his shotgun two to three times as the Subject was pointing the gun at Detective B. Detective A then observed the Subject turn to his right and saw gunfire striking Detective C's windshield. Although Detective A could no longer see the Subject's gun, he now believed that the Subject was shooting at Detective C, and he fired an additional two to three rounds at the Subject, until his shotgun was empty.

Detective B was about to exit his vehicle when he observed the Subject, still in his (the Subject's) vehicle, turn toward him with what appeared to be a handgun. Detective B then heard the sounds of gunshots, which he assumed were from either Detective A or C. Detective B described the Subject's weapon as a blue steel handgun and was unsure if it was a revolver or a semiautomatic. Detective B stated that he fired his shotgun as the Subject's upper torso was turning to the left, toward Detective B, and the Subject's gun was pointed toward the street.

Detective C observed glass breaking out of the rear windshield of the Subject's vehicle and believed that the Subject was shooting at the detectives. Detective C was in fear for his life and, without exiting his vehicle, fired four rounds through his own windshield in the direction of Subject 1. Detective C indicated that due to the tint on the rear windshield of the Subject's vehicle, he could not see the exact movements of the Subject, but believed that the Subject had fired a shot through his (Subject 1's) rear window. After firing the shots through his windshield, Detective C exited his vehicle in an effort to see inside of the Subject's vehicle.

Detective D, heard shots being fired and observed the Subject lean to his right, with what Detective D believed to be a gun in the Subject's hand. Detective D thought the Subject was attempting to acquire either himself or another detective as a target and fired one round from his shotgun at Subject 1.

Following the shooting, Detectives A, B, and D placed their shotguns in their respective vehicles and drew their pistols. Detective A gave commands to the Subject, ordering him numerous times to "show his hands" and to "open the driver's side door." The Subject finally opened the door, and pulled himself partially out of the vehicle. The Subject was then taken into custody and handcuffed.

Meanwhile, Witness A went outside and, prior to hearing gunshots, heard the detectives yelling commands at the Subject. Witness A indicated that the detectives were giving the Subject commands and that the Subject was not obeying them. Witness A observed the Subject making sudden movements within the vehicle prior to shots being fired. At one point, it appeared that the Subject had his palms together and was reaching to his right. It also appeared to Witness A that the Subject reached down

under the passenger side of the front seat. According to Witness A, when the Subject made a quick motion to his right, he observed Detective A fire four shots. Witness A did not see the Subject in possession of a gun. According to Witness A, after the shots were fired, the Subject continued to ignore the detectives' commands and was moving around within the vehicle. The Subject finally came out of the vehicle as though he was falling, with his legs remaining within the vehicle.

A Rescue Ambulance arrived at the scene and treated the Subject for gunshot wounds to his left shoulder, neck and head. The Subject was subsequently transported to a hospital.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Detectives A, B, C and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Detectives A, B, C and D's drawing and exhibiting to be in policy.

C. Use of Force

The BOPC found rounds 1-3 discharged by Detective A to be in policy, and rounds 4-6 to be out of policy.

The BOPC found Detective B, C and D's uses of force to be in policy.

Basis for Findings

A. Tactics

The BOPC found that the tactics used during this incident did not unjustifiably and substantially deviate from approved Department training, and noted that a Tactical

Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Detectives A, B and C exited their respective vehicles and exhibited their shotguns in preparation of confronting a possible deadly threat. Additionally, Detective C believed the Subject was firing his weapon in his direction and drew his service pistol from his tactical vest to confront the perceived deadly threat.

The BOPC found Detectives A, B, C and D's Drawing/Exhibiting to be in policy.

C. Use of Force

The BOPC found the first three rounds discharged by Detective A to be in policy. The BOPC found the discharge of the subsequent three rounds by Detective A to be out of policy. The BOPC noted that the preponderance of the available evidence did not support an objectively reasonable belief that the Subject presented an imminent threat of death or serious bodily injury at the time those rounds were discharged. Specifically, Detective A did not observe the Subject in possession of a gun at the time the rounds were fired, and impacts to the windshield of Detective C's vehicle, which were caused by Detective C's gunfire, did not constitute the basis for an objectively reasonable belief that the Subject was firing at Detective C.

The BOPC noted that Detective B immediately exited his vehicle with his Department issued shotgun and took a position behind his open door. Detective B observed the Subject turn his head to the left in his direction. The Subject then continued to turn his body to the left and raised his right arm while holding what Detective B perceived to be a "blue steel handgun".

Detective B's decision to use lethal force was objectively reasonable, in that an officer with similar training and experience would have reasonably perceived the Subject's actions to constitute an imminent threat of death of serious bodily injury.

The BOPC noted that Detective C heard a gunshot and perceived that he was being fired upon by the Subject. This belief was a result of his observation that the rear window of the Subject's vehicle was "broken."

Detective C's decision to use lethal force was *"objectively reasonable,"* in that an officer with similar training and experience would have reasonably perceived that the situation posed an imminent threat of death or serious bodily injury.

The BOPC noted that Detective D heard gunshots. Looking into the passenger compartment of the Subject's vehicle, Detective D saw the Subject lean to this right and observed what he believed to be the silhouette of a gun in his hand.

Detective D's decision to use lethal force was objectively reasonable, in that an officer with similar training and experience would have reasonably perceived the Subject's actions to constitute an imminent threat of death of serious bodily injury.

The BOPC found rounds 1-3 discharged by Detective A to be in policy, and rounds 4-6 to be out of policy.

The BOPC found Detective B, C and D's uses of force to be in policy.

From Section V Preventable Traffic Collisions, Page 7
Serious Injury Collision Case Summaries & Reviews

Case A **Level 1 Injury Collision**

SUMMARY
Driver Officer A and passenger Officer B were on duty in uniform in a marked police vehicle northbound on Roadway X in the number 3 lane, approaching a red light at a tri-light controlled intersection with Roadway Y. Subject 1 was riding a bicycle eastbound on Roadway Y, crossing the intersection in the south crosswalk, the crosswalk immediately in front of Officer A's northbound vehicle.

Officer A said he was slowing as he approached the intersection, and when he was about 100' south of the intersection, the light changed to green for northbound traffic. Officer A began to accelerate and was traveling at about 10 miles per hour when he A saw Subject 1 pedaling eastbound through the intersection. Officer A braked, but was unable to stop completely, and the left front bumper of the police car struck the bicycle. Subject 1 fell onto the hood of the police car, then rolled off to the ground in front of the car.

Subject 1 said when he entered the crosswalk riding his bicycle, the signal light was green, and the pedestrian light was blinking red (indicating an impending light change). Subject 1 said as he was crossing the intersection, the light turned yellow. Subject 1 said as he reached the farthest lane, the police car ran into his bicycle, knocking him to the ground.

Passenger Officer B said the police car slowed to about 5 miles per hour as it approached the red signal at the intersection. When the light turned green, the police car accelerated to about 10 miles per hour before Officer B saw Subject 1 riding eastbound toward the police car. Officer B said Officer A tried to stop, but was unable to avoid striking Subject 1.

Officers C and D were riding together in a marked police vehicle on Roadway X directly behind Officer A's vehicle. Officer C and D each stated that they saw Officer A's vehicle come to a stop for the red signal at the intersection with Roadway Y. Officer C stated that when the light turned green for northbound traffic, he saw Officer A begin to proceed northbound. Officer C then saw Subject 1 riding eastbound across the intersection, and subsequently was struck by Officer A's vehicle.

Officer D said he saw Subject 1 pedaling across the intersection, then Subject 1 stood up and began to pedal faster. The light for northbound turned green, and Officer A began driving northbound and struck Subject 1.

Witness 1 said he was northbound on Roadway Y, stopped for the red signal, and was the first car in the number 1 lane. Witness 1 saw Subject 1 pedaling across the crosswalk and get struck by the police car just before Subject 1 reached the other side of the intersection. Witness 1 said the light changed to green for northbound immediately after the collision.

Witness 2 said he was northbound in the number 2 lane. Witness 2 said he saw Subject 1 crossing the intersection, and then he saw in his side mirror the police car approaching the intersection. Witness 2 said the police car "took off assuming the light had gone green," apparently indicating that Witness 2 believed the light was still red for northbound traffic.

Subject 1 sustained a fractured right tibia and complaint of pain to the chest and abdomen and was transported from the scene by ambulance. Officer A and B were both wearing safety belts[27] and neither sustained injury. The police car and the bicycle each sustained minor damage.

DEPARTMENT ACTION

The collision investigation established that Officer A was at fault in the collision and the primary collision factor was proceeding into a controlled intersection on a red signal. The Department determined the collision to be Level 1 and Officer A was assessed 1 point. No complaint of misconduct was initiated.

CIVIL LAWSUIT

A lawsuit has been filed against Officer A.

OIG ANALYSIS

The OIG noted that this collision was determined to be Level 1. This determination would appear to conflict with SO 45, which allows a Level 1 classification when there are no visible injuries. Although a leg fracture might not be visible, the traffic investigation properly reported the extent of injury as a "severe injury," in accord with the Department Traffic Manual.[28] As Level 1 provides for the lowest point assessment, it seems unlikely the Level 1 was meant to be applied to collisions resulting in severe injury simply because the injury is not visible.

Also, the traffic collision report lists the primary collision factor as unsafe turning movement,[29] and indicates that Subject 1 was the party at fault. However, Officer A's Commanding Officer subsequently determined that the collision was caused by Officer A proceeding into a controlled intersection on a red signal, based on the statements of 2 independent witnesses who had an

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[27] For this QDR review, "safety belt" should be considered synonymous with "lap/shoulder harness" as used on Dept. collision forms, or "restraint system" as used in Section III.C., Safety belt considerations (*infra*).
[28] Dept. Traffic Manual Vol. 3 § 113, "Injury" (Rev. 06/01/04).
[29] Cal. Veh. Code § 22107.

unobstructed view of the collision. The OIG noted that both witnesses' accounts differed from that of all 4 police officers. The OIG agrees with the Commanding Officer's finding.

The OIG also noted that the traffic investigator's determination of the primary collision factor appears unsupported by any evidence. The bicyclist, all officers, and all witnesses reported that the bicyclist was riding eastbound in the crosswalk, approaching the east sidewalk of Roadway Y. No evidence suggested that the cyclist had turned northbound. However, the traffic investigator drew a sketch depicting that the cyclist had turned northbound prior to the collision, and identified the primary collision factor as unsafe turning movement. The OIG suggests that it might be appropriate for any error in the traffic investigation report to be corrected by a supplemental report.

Case B **Level 2 Injury Collision**

SUMMARY

Civilian A was road testing a police motorcycle outfitted for motorcycle training. While traveling on an access road Civilian A approached a gate restricting access to the driver's training track. Adjacent to the gate were two steel posts separated by a space wide enough for a motorcycle to pass through. As Civilian A drove between the posts his left foot hit one of the posts and twisted to the left. Civilian A sustained a broken left fibula at the ankle and was transported to the hospital for treatment. The motorcycle sustained minor damage to the foot shifter.

DEPARTMENT ACTION

The collision investigation established that Officer A was at fault in the collision and the primary collision factor was other improper driving.[30] The Department determined the collision to be Level 2 and Civilian A was assessed 2 points. No complaint of misconduct was initiated.

Case C **Level 2 Injury Collision**

SUMMARY

Driver Officer A and passenger Officer B were on duty in uniform driving a marked police vehicle. In response to a broadcast of a stolen vehicle being driven in the immediate area, Officer A responded to the call without emergency equipment on.[31]

Officer A drove eastbound on Roadway X and approached a signal-controlled intersection with Roadway Y. Officer A said the signal for eastbound traffic was green and he proceeded into the intersection. Officer B said the traffic signal was yellow as the officers approached the intersection. Officer A observed Vehicle 2 driving southbound on Roadway Y, headed toward the rear of the police car. Officer A tried to avoid the impact by swerving to the right, but Vehicle 2 struck the left rear of the police car. After impact, the police car continued in a

[30] According to the California Highway Patrol traffic investigation manual, which governs use of the Traffic Collision Report forms, "other improper driving" refers among other things to negligent driving off the roadway.
[31] On a black and white patrol vehicle, "emergency equipment on" generally means that the overhead light bar is fully activated with rotating or flashing red, blue, and yellow lights, and the siren is continuously on.

southeast direction, striking the curb, a signal light pole, an iron fence in front of a business, and a pedestrian light pole before coming to rest on the southeast corner.

The driver of Vehicle 2 said he was southbound on Roadway Y and stopped for a red signal at the intersection with Roadway X. When the light turned green for southbound, he proceeded. He then struck the police car in the middle of the intersection. Two passengers in Vehicle 2 also said the light was green for their car when they entered the intersection.

Pedestrian 1 said he was standing on the southwest corner of the intersection and saw the police car enter the intersection against a red light. Pedestrian 2 said he was walking northbound on the east sidewalk and he saw the police car enter the intersection against the red light.

Officers A and B were not wearing their safety belts at the time of the collision. Officer A sustained a small abrasion to the top of his head, with complaint of neck and head pain. Officer B sustained a fractured right hand and complained of pain to his right shoulder, rib cage, and right arm. The driver and passengers of Vehicle 2 were not injured.

The police vehicle sustained major front end and side damage. Vehicle 2 sustained major front end damage.

DEPARTMENT ACTION

The traffic investigation established that Officer A was at fault, with a primary collision factor of failure to stop for a red light at a traffic signal.[32] The Department determined the collision to be Level 2 and Officer A was assessed 2 two points. No complaint of misconduct was initiated.

OIG ANALYSIS

On page 1 of the Traffic Collision Report, the OIG noted that Officer A is listed as "lap/shoulder harness used" in the "Safety Equip" check box. However, Officer A said he was not wearing his safety belt because it could "cause [him] to lose valuable time if [he] were to engage suspects." Similarly, page 3 of the collision report indicates that Officer B was wearing a safety belt, but Officer B said he was not wearing the belt, although he gave no reason why not.

On page 6 of the report, the Collision Summary states that the police car (V-1) collided into Vehicle 2. However, the statements of all parties and the damage on Vehicle 2 all indicated that Vehicle 2 collided into the police car.

Officer A and Officer B both stated that they were responding to a call of a stolen car that was eastbound on Roadway X, but the location they specified in their reports is approximately 1 mile west of the where the collision occurred. The officers were traveling eastbound at the time of collision, which would be the opposite direction of where they reported the stolen vehicle as being. The OIG noted that this apparent conflict was not addressed.

[32] Cal. Veh. Code § 21453(a).

Case D **Level 2 Injury Collision**

SUMMARY

Officers A, B, C, and D were present at a command post where a perimeter was set up for a man with a gun call. Officers A, B, C, and D were directed to another location within the perimeter to search a residence for the suspect. En route to the location, Officer A was the driver of a marked police vehicle while Officers B and C sat inside the open trunk of Officer A's vehicle with their legs dangling over the rear bumper. Officer D followed in another police vehicle.

Officer A drove to the location and stopped, and Officer D stopped behind. Officer A realized that he had parked directly in front of the residence to be searched, which is a tactical error. Officer A then without warning backed up his vehicle and struck the front end of Officer D's vehicle, which pinned Officer B's right foot between the vehicles. Officer B sustained a severe injury to his foot and was transported to a hospital for treatment. There was no damage to the police vehicles.

DEPARTMENT ACTION

The investigation established that Officer A was at fault in the collision and the primary collision factor was unsafe backing.[33] The Department determined the collision to be Level 2 and Officer A was assessed 2 points.

OIG ANALYSIS

The traffic collision investigation report does not identify passengers riding in the trunk as a contributing factor. By definition, a traffic collision is an unintentional occurrence which causes injury or death.[34] Here, but for the injury to Officer B, there would have been no collision because the mere contact between 2 police cars did not result in damage. The Traffic Manual directs that a condition that contributes to the occurrence of the collision should be documented in the collision report as an Other Associated Factor.[35] Officer A knowingly permitted a person to ride in the trunk[36] and Officer B rode in the trunk,[37]and each act appears to the OIG to have contributed to the collision. If the Department concurs, the OIG suggests the collision report be amended by supplemental report.

From a risk management perspective, the OIG has concerns about officers riding in a vehicle trunk. The collision report includes statements from both officers who rode in the trunk and the driver of the vehicle, and all three stated they were engaged in a "tactical field operation." The report indicates they all were driving to a location to conduct a K-9 search. No Code 3 responses were noted and presumably there was no exigency. The OIG contacted Training Division and confirmed that riding in the trunk is not a trained method of transport. The OIG was unable to identify in TEAMS II any documented discipline or training for any of the officers involved in this incident.

[33] Cal. Veh. Code § 22106.
[34] Traffic Manual Vol. 3 § 128.
[35] Traffic Manual Vol. 3 § 373.
[36] Cal. Veh. Code § 21711(c).
[37] Cal. Veh. Code § 21711(d)

Case E **Level 3 Injury Collision**

SUMMARY

Driver Officer A and passenger Officer B were on duty in uniform in a marked police vehicle responding to a robbery call. The officers both removed their safety belts as they approached the call. Both officers then heard a radio broadcast that Officer C was following a suspect eastbound on Roadway X. Officer A then proceeded northbound on Roadway Y Code 3 en route to a back-up request from Officer C.[38] Officer A said as he attempted to make a right turn eastbound onto Roadway Y, the police vehicle lost traction, which caused the vehicle to cross over the westbound lanes striking and jumping the curb, and striking a tree.

Both Officer A and Officer B were not wearing their safety belts at the time of the collision. Officer A sustained a fractured arm and Officer B sustained a one inch laceration to his head, as well as complaint pain to the hand and leg. There was major damage to Officer A's vehicle.

DEPARTMENT ACTION

The traffic investigation established that Officer A was at fault with a primary collision factor of unsafe speed for existing conditions.[39] The Department determined the collision to be Level 3 and Officer A was assessed 4 two points. No complaint of misconduct was initiated.

OIG ANALYSIS

The OIG noted that although the traffic investigation established unsafe speed as the primary collision factor, Officer A did not report and apparently was not asked for his known or approximate speed at the time of collision. Similarly, Officer B did not report and apparently was not asked for his estimation of speed at the time of collision. Traffic investigators established that the vehicle was traveling a minimum of 44 mph. The investigation report records that the speed limit on Roadway Y is 30 mph, but there is no indication of the speed limit on Roadway X.

Also, the intersection of Roadway X and Roadway Y is about 0.2 miles from the location of the original robbery call, where Officers A and B removed their safety belts. When the officers elected to respond from that location to the back-up call, they did not re-engage the safety belts. Officer C advised that was eastbound on Roadway Y, which suggests the officers knew that distance would be greater than the 0.2 miles, and that there could be chance the suspect might attempt to flee in the vehicle.

[38] On a black and white patrol vehicle, Code 3 means that the overhead light bar is fully activated with rotating or flashing red, blue, and yellow lights, and the siren is continuously on.
[39] Cal. Veh. Code § 22350.

Case F **Level 3 Injury Collision**

SUMMARY

Driver Officer A and passenger Officer B were on duty in uniform in a marked police vehicle. Officer A responded Code 3 to an ambulance traffic call. Officer A increased speed as he made a left turn from Roadway X to Roadway Y. Officer A then lost control of the vehicle and struck the curb of Roadway Y.

The vehicle struck a parking meter, shearing the meter off at ground level and propelling both the meter and the meter housing away from the vehicle. The meter struck the security door of a nearby business. The meter housing struck Pedestrian C in the head as he lied sleeping on the sidewalk in front of a nearby business.

The police vehicle continued over the curb, onto the sidewalk, and into the same security door which the meter had struck. The police vehicle came to rest with Pedestrian C under the front end of the vehicle. Officer A exited the vehicle, saw Pedestrian C under the car, and reentered the vehicle in an attempt to back up, but the vehicle was disabled and would not start. Officer A then placed the vehicle in neutral, and Officer A and B with the assistance of other pedestrians pushed the vehicle backward and freed Pedestrian C.

Pedestrian C sustained multiple facial fractures and abrasions to his knee. Both Officer A and Officer B were wearing safety belts. Officer A complained of pain to the left arm, left knee, and neck. Officer B complained of pain to the right shoulder, left ankle, and left foot. The police vehicle sustained front end damage and the tires were flattened.

DEPARTMENT ACTION

The collision investigation established that Officer A was at fault in the collision and the primary collision factor was unsafe speed.[40] The Department determined the collision to be Level 3 and Officer A was assessed 4 points. No complaint of misconduct was initiated.

OIG ANALYSIS

The OIG noted that although the collision established unsafe speed as the primary collision factor, the investigation is absent any estimation of speed. Officer A's statement includes no comment at all about either the observed (on the speedometer) or estimated speed of the vehicle at any time. Officer B's statement says he was "reading the comments of the call," presumably on the vehicle's mobile computer terminal, then looked up just prior to impact with the curb. Officer B said he did not know how fast the vehicle was travelling at the time, and he apparently was not asked to estimate the speed.

One witness said she "saw the police car speeding out of [Roadway X]" and the car then "lost control and jumped the curb." A second witness said the car "was not speeding," but the witness thought that the driver "probably stepped on the gas pedal instead of the brake."

[40] Cal. Veh. Code § 22106.

The Specialized Collision Investigation Detail (SCID Team) used a "Total Station" device to store evidence from the scene, including at least 5 tires marks in various places on both Roadway X and Y. Based on the OIG's review of other collision investigations, we would have preferred that the investigator state whether a relative speed could have been determined in this incident from the available evidence (tire marks). Further, we would have preferred that SCID investigators ask Officer A what speed he was traveling at or before impact, and to record his response in the investigation report.

Case G **Level 3 Injury Collision**

SUMMARY

Supervisor A was on duty in uniform driving a marked police vehicle. In response to a radio broadcast for a back-up, Supervisor A responded Code 3 westbound on Roadway X. As Supervisor A approached Roadway Y, he saw that the signal for westbound traffic was red. Supervisor A stopped, saw that both northbound and southbound traffic had come to a stop, and then proceeded against the red light. Supervisor A had accelerated to about 15 miles per hour into the intersection when he observed a black and white vehicle approaching from the south, which then struck Supervisor A's vehicle.

Officer A was also on duty in uniform driving a different marked black and white police vehicle. Officer A also responded Code 3 to the back-up call, traveling northbound on Roadway Y. As Officer A approached the intersection with Roadway X, he saw that the northbound traffic was completely stopped in both northbound lanes, preventing him from proceeding. Officer A saw that southbound traffic also was completely stopped. Officer A then merged into the center turn lane and continued northbound at 35-40 miles per hour. As Officer A entered the intersection, he saw a black and white also entering the intersection from the east. Officer A was unable to take evasive action and struck the other police car.

The impact caused Supervisor A's vehicle to travel sideways in a northwest direction and collide with the front end of Vehicle 3, which was stopped facing southbound on Roadway Y in the number 1 lane. Supervisor A's vehicle then continued sideways and struck the front end of Vehicle 4, also stopped facing southbound on Roadway Y, but in the number 2 lane. Vehicle 4 was knocked sideways over the curb and into a signal light pole.

After the initial collision, Officer A's vehicle also slid sideways and also struck the front of Vehicle 3 after it was struck by Supervisor A's police car.

The driver of Vehicle 3 stated that he saw one police car traveling westbound and one police car traveling northbound. They were both driving very fast and crashed in the middle of the intersection.

The driver of Vehicle 4 stated that he was stopped at the red light and he saw a police car traveling northbound with lights and sirens activated. He also saw another police car traveling westbound with lights and sirens activated. The driver of Vehicle 4 stated that it did not appear that the police vehicles stopped to enter the intersection, and both vehicles then collided.

Witness 1 said she was walking northbound on the east crosswalk on a green light. She observed a police car approaching her traveling westbound with lights and sirens. Witness 1 stopped halfway in the crosswalk to yield to the police car. Witness 1 also observed another police car approaching the intersection from northbound with lights and sirens activated. The police car traveling westbound entered the intersection on a red light and got broadsided by the police car traveling northbound.

Supervisor A and Officer A each stated that they were wearing safety belts at the time of the collision. Supervisor A sustained a broken pelvis, broken ribs, and a collapsed lung. Supervisor A was transported by ambulance to the hospital. Officer A complained of pain to his head and was transported by ambulance to the hospital. Party 3 complained of pain to his left knee and was treated at the scene. Party 4 complained of pain to his neck and left side and was transported by ambulance to the hospital.

Both police vehicles sustained major damage. Vehicle 3 and 4 sustained moderate damage.

DEPARTMENT ACTION

The traffic investigation established that Supervisor A was at fault with a primary collision factor of not operating an authorized emergency vehicle with due regard for the safety and persons and property.[41] The Department determined the collision to be Level 3 and Supervisor A was assessed 4 points. No complaint of misconduct was initiated.

OIG ANALYSIS

The OIG noted that the initial traffic collision reported that Officer A was not wearing a safety belt at the time of collision. The report does not specify how the investigator obtained this information, although the "Remarks" section of the investigation infers that someone took a statement from Officer A. It is not clear when the investigator actually completed the report, as there are references to follow-up actions that occurred over a month after the collision.

Officer A completed a supplemental report over five months after the collision. In his report, Officer A stated he was wearing a safety belt. The OIG would have preferred if the inconsistency had been identified and resolved.

Case H **Level 3 Injury Collision**

SUMMARY

Officer A was driving an unmarked police vehicle on a freeway in the number 1 lane at 55 mph. Officer A started to change lanes, looked to the right to be sure it was clear, and when he turned back to look forward, saw that the vehicle in front of him had stopped. Officer A braked but was unable to stop in time and hit the rear end of Vehicle 2. Vehicle 2 subsequently was knocked forward into Vehicle 3 which also was stopped in the same lane.

[41] Cal. Veh. Code § 21807.

Subject 2, the driver of Vehicle 2, said she had been driving at 25-30 miles per hour in the number 1 lane when Vehicle 3 directly in front of her came to a stop. Subject 2 said she stopped, but then was struck from behind by the police car and subsequently was knocked into Vehicle 3.

Subject 3, the driver of Vehicle 3, said he had been driving 40 miles per hour in the number 1 lane in stop and go traffic. Subject 3 said the traffic in front of him stopped, he then stopped, and he looked in his mirror and saw Vehicle 2 approaching. Subject 3 said Vehicle 2 struck the rear of his vehicle, then struck it again 1-2 seconds later.

Officer A was wearing his safety belt and sustained a hairline fracture to the left shoulder. The traffic collision report (completed by another law enforcement agency) does not indicate whether Subject 2 or 3 sustained any injury.

The police vehicle sustained major front end damage. The truck sustained minor damage to the rear bumper and minor damage to the front end. The third vehicle sustained minor damage to the rear bumper.

DEPARTMENT ACTION

The collision investigation established that Officer A was at fault in the collision and the primary collision factor was unsafe speed for existing conditions.[42] The Department determined the collision to be Level 3 and Officer A was assessed 4 points. No complaint of misconduct was initiated.

Case I **Level 3 Injury Collision**

SUMMARY

At approximately 5:40 p.m. on a weekday, driver Officer E and passenger Officer F were in uniform in a marked police vehicle. The officers were northbound on Roadway X when they observed adult Subject 1 tagging[43] the wall of a business to their west, on the north side of Roadway Y. Subject 1 saw the police vehicle and ran westbound on the north sidewalk of Roadway Y. Officer E drove the police vehicle onto the north sidewalk via a disabled access ramp on the northwest corner of Roadways X and Y and proceeded westbound on the sidewalk. Subject 1 turned northbound from the sidewalk into a parking lot and attempted to climb a fence, but was unable. Subject 1 then turned back southbound and ran back onto the sidewalk in front of the oncoming police vehicle. The police vehicle struck Subject 1, knocking him to the ground and dragging him a short distance.

Officer E said he was driving less than 10 miles per hour at the time he struck Subject 1. Officer F said he was unable to estimate the speed while driving on the sidewalk. Two pedestrian witnesses also estimated the police car to be traveling on the sidewalk at less than 10 miles per hour.

[42] Cal. Vehicle Code § 22350.

[43] In this instance, spray-painting gang graffiti, likely a misdemeanor crime per Cal. Penal Code § 594.

Subject 1 sustained a fractured neck and lower back, a lacerated spleen, an abrasion to his head, leg and hand and was transported to the hospital. Neither Officer E nor Officer F sustained any injury. There was no damage to the police vehicle.

DEPARTMENT ACTION

The investigation established that Officer E was the party at fault in the collision and the primary collision factor was improperly operating a motor vehicle upon a sidewalk.[44] The Department determined the collision to be Level 3 and Officer E was assessed 4 points.

Due to a claim for damages that alleged unauthorized force and false arrest, a personnel complaint against Officers E and F was generated. The Area Command Officer initially unfounded an allegation of negligent driving, but the Bureau Commander militarily endorsed to an allegation of using improper tactics by driving on the sidewalk, and sustained. The Chief of Police approved the sustained allegation, and Officer E received a Conditional Official Reprimand admonishing that any similar misconduct within 5 years will result in a 5-day suspension. No allegations against Officer F were sustained.

CIVIL LAWSUIT

A civil action was filed against the Department, as well as Officers E and F. However, there is no TEAMS II entry for either officer in regards to this civil action.

OIG ANALYSIS

The OIG noted that according to the internal investigation report, the complaint investigation was initiated 71 days after the incident occurred, and in response to a claim for damages brought by Subject 1. The OIG would have preferred that the Department itself had initiated the complaint investigation, based on the tactics used in this incident.

The OIG concurs with finding of a sustained allegation by military endorsement of the Bureau Commander and approved by the Chief of Police. We agree with the Commander's rationale that "pursuing suspects on a sidewalk is an act that would generally be discouraged unless exigent circumstances existed [and i]n this case no exigency appears to have been present."

The OIG noted that Officer F, according to the internal investigations, was unable to estimate the speed of the police vehicle or the distance between the vehicle and Subject 1 while the police car was traveling on the sidewalk (although the investigation report does not specify why Officer F was unable). Although Officer F was a relatively inexperienced Police Officer I at the time of the incident, other evidence indicates there was no Code 3, no high speed, no use of force, and only 1 subject involved, and the crime appeared to be a misdemeanor. Two bystanders were able to estimate the speed of the police car. Police officers are routinely called upon to make and retain observations regarding distance, speed, time, and other more detailed recollections of events. The OIG suggests that if it has not already been addressed, that the Department consider providing Officer F sufficient training to be able to perform detailed recall of events, even under stressful conditions.

[44] Cal. Veh. Code § 21663, no person shall operate or move a motor vehicle upon a sidewalk except as may be necessary to enter or leave adjacent property.

The collision investigation report indicates by checkbox that both Officer E and Officer F were wearing safety belts. However, neither officer made any mention of wearing safety belts in their brief written statements, unlike most of the other officers in the collision reports in this review. Additionally, considering that the officers were preparing to exit their vehicle and contact the suspect, it seems at best unusual that the officers would be wearing safety belts. Last, although not known to investigators at the time, Officer E was involved in another collision 9 months later, and was not wearing a safety belt, even though he was traveling en route to a location and not near contact with any suspects. The pattern information further suggests that Officer E may not have been wearing a safety belt, and raises a question of how the collision investigator obtained the information to complete the checkboxes.

Case J **Level 2 Non-injury Collision**

SUMMARY

Driver Officer E (same as in Case I) and passenger Officer G were in uniform and driving a marked police car responding as back-up at a call of a man with a gun at 2250 hours on a Sunday night. The police car was traveling westbound on Roadway X approaching the intersection with Roadway Y. Officer E said the light was yellow for westbound traffic. Officer G said he was looking at the computer and did not see the traffic light. As Officer E drove through the intersection, the police car was struck on the driver's side by a vehicle making a left turn.

Driver 2 said the light was green when he proceeded to make his left turn.

Driver 2 complained of pain to his shoulder. Neither officer was wearing a safety belt, but both officers reported being uninjured. Vehicle 2 sustained moderate damage to the front end. The police vehicle sustained moderate left side damage.

DEPARTMENT ACTION

The collision investigation established that the primary collision factor was failure to stop for a red signal,[45] although neither party was identified as the party at fault.[46] The Department determined the collision to be Level 2 and Officer E received 2 points. No complaint of misconduct was initiated.

Officer E had prior PTC points accrued and his total points therefore Training Division was notified and Officer E was directed to Standardized Driver Improvement Training. Officer E's driving privileges were suspended for 6 months.[47] Officer E also received a comment card[48] regarding seat belt use, which was placed in his personnel file.

[45] Cal. Veh. Code § 21453(a).
[46] It is permissible for the traffic investigator to identify the apparent cause without identifying the apparent party at fault when there is insufficient evidence to determine which driver was at fault.
[47] In compliance with Special Order No. 45, December 2, 2008
[48] A non-disciplinary file notation, in this case documenting that a superior discussed proper seat belt use with the officer.

OIG ANALYSIS

The OIG noted that although both officers reported that they were responding as backup to a "man with a gun" call, and it was nearly 11:00 p.m. on a Sunday night, the collision investigator also made no mention of speed as a possible associated factor. Further, neither officer made any mention of speed in written reports, and Driver 2's statement is limited to 2 sentences, neither of which mentions speed.

The OIG noted the collision investigation report established that the primary collision factor was failure to stop for a red signal, however, the report did not identify which party was at fault. However, we concur with the Commanding Officer's determination of the collision as preventable, and the assessment of 2 points to Officer E, as SO 45 does not require that the involved officer be identified as the party at fault. The fact that Officer E was responding as backup to a "man with a gun" call at 2250 hours tends to suggest that the officer may have been traveling at a speed greater than the posted limit, and he was not in Code 3 mode.

The adjudication noted that Officer E had a prior accrual of points from a collision 9 months prior to this incident, and as a result directed Officer E to Standardized Driver Training Improvement Training. When we checked Officer E's TEAMS report, we noted that he attended an 80-hour vehicle-related course within 40 days of the adjudication. However, in the appropriate section in TEAMS listing "Reason for Training," no information has been entered. The OIG suggests that this area be used to indicate when training is given as the result of SO 45, perhaps by a notation of "PTC Directed Training."

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 45 **December 1, 2008**

APPROVED BY THE BOARD OF POLICE COMMISSIONERS ON NOVEMBER 4, 2008

SUBJECT: DEPARTMENT PREVENTABLE TRAFFIC COLLISION POLICY - REVISED

PURPOSE: Every employee driving a City vehicle is responsible for the care and proper operation of the vehicle. Gross negligence, a reckless disregard for the safety of persons and property, driving under the influence of alcohol or a drug, or driving that results in a criminal filing against the employee shall be considered misconduct. However, other preventable traffic accidents that are the result of ordinary inattention or intentional tactical collisions should not be considered misconduct. This policy generally categorizes preventable traffic accidents resulting from ordinary inattention to be a matter of performance quality to be remediated, not misconduct subject to a Personnel Complaint.

A point system and a review by management provide accountability for employee traffic accidents. Remediation through training provides performance improvement guidance while at the same time offers the employee an opportunity to reduce accrued points. Predictable and reasonable consequences for performance errors motivate employees to perform well. An appeal process provides employees with staff officer review of judgments employees believe to be errant.

PROCEDURE: These procedures apply to all traffic accidents occurring on and after 0001 Hours, November 5, 2008. Accidents occurring before November 5, 2008, shall not be counted and shall be disposed of according to policies in place when they occurred.

I. **POINT SYSTEM CRITERIA.** The criteria for the point system lie in three levels of preventable traffic accidents:

A. **Level One Accident.**
* Maneuvering speed 10 miles per hour (MPH) or less prior to braking; and,
* No disregard for safety; and,
* No visible injuries.

B. **Level Two Accident.**
* Operating speed above 10 MPH prior to any braking, in essential compliance with Vehicle Code; and,
* No disregard for safety; and,

* No life threatening injury; and,
* City vehicle is repairable.

C. Level Three Accident.
* City vehicle is not repairable; or,
* Life threatening injury occurs; or,
* Employee was not in essential compliance with Vehicle Code.

II. POINT COUNT CRITERIA AND GUIDANCE AND REMEDIATION THRESHOLDS. A preventable traffic accident that meets the criteria of any of the three levels shall be assigned a number of points according to the schedule below. Points accrue for each accident on the date of the accident, and remain countable for 36 months from the date of the accident. After 36 months, the point is no longer countable toward the total.

Level One Accident: 1 point
Level Two Accident: 2 points
Level Three Accident: 4 points

A. When three points accrue in 24 months, the employee shall be directed to a formal standardized driver improvement training course conducted by Training Division. This training does not reduce the point count.

B. When an employee accrues five points in 36 months, the employee shall not be permitted to drive a City vehicle for six months.

When an employee accrues eight or more points or four preventable accidents within 36 months, the employee shall be administratively transferred after the final adjudication of the latest preventable collision appeal to another geographic division and shall not be permitted to drive a City vehicle or return to the division left for one year. The transfer location will be determined by the Department, and the employee will have no choice in the decision. The Chief of Police shall retain final authority to approve or disapprove administrative transfers pursuant to this policy.

Note: The "no driving" restriction shall not apply to an employee who is promoted to another Civil Service rank during the "no driving" period.

III. **POINT SYSTEM EXCEPTIONS.** A preventable traffic accident resulting from the employee's gross negligence, consumption of alcohol or drugs, reckless disregard for safety, or which results in a criminal filing against the employee, shall be handled as misconduct through a Personnel Complaint, not through the point-count remediation system.

Actions of the employee incidental to the accident are not covered by the Point Count policy. Examples include, but are not limited to, failing to wear a seat belt, shooting from a moving vehicle, failing to properly secure a prisoner in the vehicle, or a pursuit policy violation. In other words, this policy only covers inattentive driving, not other actions committed while driving.

If an employee exceeds eight points or four preventable accidents within 36 months, and the employee's commanding officer (C/O) believes that the employee cannot or will not improve their driving or that the employee is a driving hazard, then the C/O shall adjudicate all future preventable traffic accidents involving the employee as misconduct using a Personnel Complaint, Form 01.28.00.

IV. **POINT COUNT REDUCTION.** If an employee attends formal driver improvement training of at least four hours in length conducted by a bona fide traffic school on a voluntary, off-duty basis without compensation, the Department will remove one point from the employee's point count. The voluntary training is acquired by the employee for the employee's own benefit. This may be done no more than once in any 24-month period.

Upon receipt of a Traffic Collision Report, CHP Form 555, the involved employee's C/O shall make a determination of preventable or non-preventable. The C/O may use a peer assessment of the employee-involved traffic accident to assist in rendering a decision; however, the peer assessment is optional. The employee's C/O will forward the decision (preventable/non-preventable and threshold level) directly to Traffic Coordination Section (TCS), not to the Bureau or next higher level in the chain of command.

The employee's C/O will count the points as listed on the TEAMS report and determine whether any of the remediation thresholds have been met. If one has been met, the C/O shall immediately take the actions required to fulfill the remediation and create a TEAMS-II Action Item to document the actions taken. A copy of the documents (e.g., request for Administrative Transfer, Intradepartmental Correspondence ordering no driving, etc.) are to be scanned and attached to the TEAMS-II Action Item if a scanner is available. The original paper documents are to be sent to TCS.

The employee's C/O shall meet with the employee, explain the rationale for the disposition, and provide a copy to the employee of all documents used to determine the administrative disposition of the accident, including the written determination of findings. The employee may have an employee representative present during the meeting and may provide a response orally, in writing, or both.

Once the involved employee has been served, the C/O shall ensure that the Traffic Collision Report and all related documents are forwarded to TCS, Emergency Operations Division (EOD). Traffic Coordination Section personnel will update the points on the involved employee's TEAMS Report, and retain files of all Traffic Collision Reports.

V. TRAFFIC DIVISION RESPONSIBILITIES: The Collision Investigation Follow-Up Unit of the traffic division investigating an employee-involved traffic accident shall:

* Forward one copy of the employee-involved Traffic Collision Report, which has been audited and approved for distribution to TCS, EOD, within five working days of the incident;
* Forward the original employee-involved Traffic Collision Report, which has been audited and approved for distribution, to the involved employee's C/O within five working days of the incident; and,
* Distribute employee-involved Traffic Collision Reports as outlined in Department Traffic Manual Section 4/211.

VI. **EMPLOYEE'S COMMANDING OFFICER'S RESPONSIBILITIES.** An employee's commanding officer shall:

* Review the Traffic Collision Report and determine the disposition: either Preventable or Non-Preventable;
* Count the points as listed on the TEAMS Report and determine if remediation thresholds have been met. If so, immediately take actions necessary to fulfill the remediation. Ensure that remediation is documented as a TEAMS-II Action Item;
* Meet with the involved employee, explain the disposition of the traffic accident, and provide a copy of all documents used to determine the administrative disposition of the accident to the employee. Unless reversed through preventable traffic collision (PTC) appeal, the C/O's disposition is final; and,
* Cause the Traffic Collision Report and all related documents to be forwarded to TCS within 30 calendar days of receipt.

VII. **TRAFFIC COORDINATION SECTION, EMERGENCY OPERATIONS DIVISION RESPONSIBILITIES.** Traffic Coordination Section shall be responsible for the following:

* Upon receipt of a Traffic Collision Report and related documents, update the points on the involved employee's TEAMS Report;
* Where the Department Traffic Coordinator has, as a result of a PTC appeal, changed the point value or the determination of "preventable" of a traffic collision, update the employee's TEAMS Report;
* Maintain the Department's employee-involved traffic accident database and retain files of all Traffic Collision Reports;
* Compile a monthly report on all overdue traffic accident adjudications and provide it to all C/Os of involved employees; and,
* Compile a monthly report of employee-involved traffic accidents and provide it to all bureau commanding officers.

VIII. **DEPARTMENT TRAFFIC COORDINATOR RESPONSIBILITY.** The Department Traffic Coordinator shall act as final authority on PTC appeals and respond in writing within 20 calendar days to each PTC appeal, the original response going to the appellant and a copy to the original adjudicating C/O.

IX. **COMMANDING OFFICER, TRAINING DIVISION, RESPONSIBILITY.** The Commanding Officer, Training Division, shall ensure documentation of the following information is entered into the Training Management System (TMS).

* Training which is directed as the result of an employee-involved preventable traffic accident, the corresponding Division of Records (DR) number, and the reason for the training (i.e., three points accrued within 24 months).

X. **APPEAL OF PREVENTABLE TRAFFIC COLLISION FINDING OR INCIDENT POINT VALUE.** Whether an employee does or does not respond orally or in writing to the C/O's determination, if the employee wishes to appeal the C/O's findings the employee shall have only one appeal per incident as follows: Within 20 calendar days of receiving the C/O's findings, the employee shall submit a written appeal on an Employee's Report, Form 15.07.00, to the Department Traffic Coordinator who shall be the Reviewing Officer. The appeal shall include a copy of the Traffic Collision Report, the C/O's findings, a statement of the disposition the employee wants, and the reasons the employee believes the requested disposition should ensue. The employee may submit other documents or evidence relevant to the appeal with the Employee's Report. The appeal shall only concern the point-value assigned to the collision, the finding of "preventable," or both.

Previous preventable traffic collisions which were not appealed in a timely manner or which have already been otherwise adjudicated shall not be the subject of this preventable traffic collision appeal. Employees shall be entitled to an employee representative to assist in formulating a written appeal in accordance with the provisions of the applicable Memorandum of Understanding.

The Reviewing Officer shall examine the employee's documentation and render a written decision, including a rationale, within 20 calendar days. A copy of the written decision and rationale shall go to the employee and to the employee's C/O. The decision of the Reviewing Officer is final and binding. If no written appeal as described in this policy is filed by the employee within 20 calendar days of receiving the C/O's findings, the matter is closed and final.

AMENDMENTS: This amends Department Manual Sections 2/296.42, 2/445.20, 3/207.60, 3/207.70, and 3/207.75.

AUDIT RESPONSIBILITY: The Commanding Officer, Emergency Operations Division, shall monitor compliance with this Order in accordance with Department Manual Section 0/080.30.

FOR
WILLIAM J. BRATTON
Chief of Police

DISTRIBUTION "D"