

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

LAW ENFORCEMENT RELATED INJURY – 064-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No (X)
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Hollywood	07/23/13		
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Officer(s) Involved in Use of Force	Length of Service
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Detective A	14 years, 9 months
Officer D	5 years, 8 months
Officer E	2 years, 9 months
Officer F	2 years, 5 months
Officer G	5 years, 2 months

Reason for Police Contact

Victim A called 9-1-1 when an unknown subject attempted to rob him as he was walking his dogs on the street. Officers responded to the general area, and when searching for the attempted robbery suspect, observed the Subject, who matched the physical description of the perpetrator, in a bus shelter. A categorical use of force occurred as the officers attempted to take the Subject into custody.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 33 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 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 3, 2014.

Incident Summary

Victim A was walking his three dogs down the street. As he crossed the street, the dogs looked backward and began barking. Based on the dogs' behavior, Victim A believed someone was walking behind him, so he stepped into the alley just east of the street to let the person pass in front of him. As Victim A walked into the alley, a male wearing a black hooded sweatshirt and black pants followed him and demanded his wallet.

Victim A told the subject he did not have his wallet on his person, and called his roommate, Witness A, on his cellular telephone for help. The subject pulled a blue steel handgun from his front sweatshirt pocket, pointed it at Victim A, and repeated his demand for the wallet. Witness A was inside their residence a short distance away when he received the telephone call from Victim A and observed the subject pointing the handgun at Victim A. Victim A repeated he did not have his wallet with him. The subject did not take any property from Victim A, and ran away.

Witness A then exited the apartment complex to assist Victim A, and they both observed the subject run west through an alley and toward a main street. Victim A and Witness A then lost sight of the subject.

Victim A called the 911 emergency line from his cellular telephone to report the attempted robbery. Communications Division (CD) broadcast an "Attempt 211 Just Occurred" radio call at an intersection for any available patrol unit. The subject was described as a male, six feet tall, thin build, all black clothing, armed with a handgun.

Uniformed Police Officers A and B were assigned the radio call.

Victim A and Witness A observed the subject walk east on the north side of the street, toward them. They observed the subject conceal himself behind shrubbery as uniformed Officer C, drove in the area searching for the subject. Officer C passed the subject, but then turned his vehicle around and saw the subject walk in the opposite direction.

Officer C broadcast he observed the possible robbery subject walking north down the street, and described him as a male wearing a black hooded sweatshirt and black jeans. Officer C then requested an additional unit.

Meanwhile, Detective A and Officer D were working inside the station and heard Officer C's broadcast and additional units responding to the request. Detective A was dressed

in a blue dress shirt with necktie and khaki pants, and Officer A was attired in full police uniform.

Detective A and Officer D drove from the station in their dual-purpose police vehicle to the area the subject was last seen to try to locate the subject. Detective A was the driver, and Officer D was the passenger.

Note: Detective A and Officer D discussed that during tactical situations Officer D would be the contact officer, as Officer D was routinely attired in full uniform.

The officers activated their emergency lights and siren and drove to the area to back-up Officer C. Officer C broadcast he lost visual contact of the subject walking in the direction he had last seen him. Detective A requested an additional clothing description for the subject via his police radio.

Officer C broadcast that the subject was wearing black jeans, a black hooded sweatshirt, had a thin build and ranged in age from the late teens to early twenties.

Note: Detective A believed the broadcast included the height of the subject, and that he was armed with a handgun.

As Detective A and Officer D approached one intersection, they observed a bus stop shelter on the street. As they looked north through the opaque backing of the shelter, they both observed the silhouette of a person, subsequently identified as the Subject, a male, 32 years of age, standing on the sidewalk area behind the shelter. The Subject appeared to be trying to conceal himself utilizing the darkness and hid on the sidewalk area between the back of the bus stop shelter and the wall of a building. Detective A and Officer D were unable to clearly observe the Subject as they drove west.

Detective A turned north (right) on the street to get a better look at the Subject and stopped at the northeast corner. The officers looked east and obtained a clear view of the Subject, who matched the physical and clothing description of the robbery subject, wearing a dark hooded sweatshirt and pants. Detective A observed that the Subject appeared to hold unknown objects in each of his hands, which he believed was possibly a weapon(s).

Note: Regarding what he observed prior to Detective A stopping the police vehicle, Officer D indicated that the little fence was blocking the details of the person. Officer D also stated that he didn't see any details until he and Detective A made that turn and nothing was blocking his view. Then they saw a person that seemed to be secreting himself or hiding himself behind the bus shelter, in between the bus shelter and the wall as the officers drove westbound, but they didn't have a clear view who that was. Detective A further stated that when he turned the vehicle northbound and both he and Officer D were able to look out of the passenger window, he observed a male black who matched the description with the dark colored hoodie and pants.

Note: According to Officer D, the Subject matched the description of the robbery subject that they were looking for because he was wearing all black, a black hoodie. Officer D saw something in the Subject's hands, but he didn't know what it was.

Detective A also indicated that the Subject had some unknown object in his hand, but he was not sure what it was.

Officer D believed the Subject was possibly an armed robbery suspect. He quickly exited the passenger side of the vehicle, but did not unholster his service pistol. Simultaneously, Detective A exited the vehicle and unholstered his pistol to a two-handed low ready position, believing the Subject could be armed.

Note: Due to the rapid unfolding of events, Officer D did not inform Communications Division (CD) that he and Detective A were Code Six at the location prior to exiting the vehicle. The investigation revealed neither officer placed themselves Code Six. Detective A indicated the officers were "Code 6 in the area" already, but they didn't issue another Code 6 broadcast specifically on the Subject when they first saw him.

Officer D asked the Subject if he could talk to him as he exited the vehicle. According to Officer D, the Subject appeared nervous once he saw that Officer D was in uniform. At this time, Officer D observed unknown objects in each of the Subject's hands. Officer D approached the Subject without informing Detective A of his intention to do so.

Officer D placed his hand over his holstered pistol as a precaution as he approached the Subject. Officer D did not order the Subject into a high-risk prone position, believing he could unholster his pistol quickly and then order the Subject into a prone position if necessary.

Note: When asked if he considered ordering the Subject into a felony prone position, Officer D indicated that he could have, but he did not consider it. Officer D indicated that based on his distance from the subject, he thought he was in a position that he "could go either way." And although he didn't unholster, he had his hand on his gun so at any time he could have pulled it out if something did happen.

Detective A indicated that there was no time to confer with Officer D about whether they should deal with the Subject by conducting a felony prone stop.

As Officer D approached the Subject, Detective A moved toward the trunk area of his vehicle to position himself as the cover officer. Detective A then moved east, as he was concerned that a possible cross-fire situation could arise due to his position in relation to Officer D.

Note: Officer D was not aware of Detective A's position during this time. Officer D was more concerned with the subject in front of him than his

partner. According to Detective A, his partner did not tell him he was going to approach the subject, but Detective A knew Officer D was the designated contact officer.

The Subject appeared startled and looked at Officer D as he came closer. According to Officer D, his intention was to grab the Subject with both hands and move him from behind the bus stop into a well-lit area to determine what the objects were in his hands. Officer D closed the distance and reached out to grab hold of the Subject's upper body. The Subject pulled away by jerking his body and moving a few steps away from Officer D.

Officer D grabbed the Subject again. The Subject turned to his right toward Officer D. As he turned, the Subject's arms swung in Officer D's direction, and both hands were clenched into fists.

Note: Officer D believed the Subject was going to hit him, so Officer D punched first. Officer D knew the subject had something in his hand, and he wasn't going to wait for the Subject to do something with it. When asked to further describe the Subject's actions, Officer D stated, he didn't know if the Subject's arm was flaying or he was turning around to give Officer D a left cross or left hook. Officer D knew the Subject had something in his hands so his fists were most likely closed, but he wasn't going to wait for him. Furthermore, Officer D indicated he believed the Subject was going to punch him based on the Subject's arms and the way he turned around and looked at Officer D.

Due to the dark conditions, Officer D was still unable to determine what the objects were that the Subject was holding in each of his hands. Officer D believed that the Subject was going to strike him with whatever objects were in his hands. Officer D, fearing for his safety, punched the Subject on an unknown part of his face with his right fist.

Note: According to Detective A, he observed the Subject turn with his left hand and arm raised upward and appeared to attempt to strike Officer D. Detective A also indicated it appeared to him that the Subject tried to strike Officer D, but that the Subject didn't get very far because as he started that turn toward his partner, his partner hit him.

The Subject stumbled, and some of the items fell out of one of his hands.¹ The Subject turned, regained his balance, and started to run east on the sidewalk. Officer D chased the Subject for approximately five to seven feet, and Detective A ordered the Subject to stop as Officer D closed the distance to the Subject. With his pistol still unholstered, Detective A moved further east around the bus stop shelter to intercept the Subject.

¹ After the Subject was taken into custody, Detective A observed cigarette lighters and small shampoo bottles on the sidewalk near the Subject's feet.

Officer D grabbed the Subject with both hands and placed all of his body weight onto his right shoulder area, while cradling the Subject's right arm against his body. Officer D used his body weight to push the Subject to the ground. The Subject fell to the sidewalk onto his left side with Officer D on top of him. Detective A observed Officer D and the Subject fall to the sidewalk. He holstered his pistol and approached to assist Officer D in taking the Subject into custody.

Officer D placed himself parallel on top of the Subject's back, and utilized his body weight on the Subject's upper right torso area. Officer D put all his body weight on top of the Subject's right shoulder where his right arm was and tried to somewhat cradle his right arm towards his body.

Officer D pressed his left forearm against the back of the Subject's neck and jaw area to keep the Subject's head from moving, while he controlled the Subject's right arm with his right hand. The Subject wore multiple layers of clothing, which made it difficult for Officer D to attain control of the Subject, who attempted to pull both hands toward his torso to place under his chest.

Detective A approached the Subject's left side and grabbed his left arm with both hands. Officer D repeatedly told the Subject to stop fighting and resisting. The Subject refused to comply and continued to resist. As Detective A grabbed the Subject's left arm, Detective A positioned himself parallel with the Subject and used his bodyweight to force the Subject's arm to the ground to gain control. The Subject continued to resist by attempting to place both hands underneath his body.

Detective A placed one of his hands on the Subject's left bicep, and the other hand on his left wrist to keep the Subject from forcing his left hand underneath his body. As the Subject continued to physically resist, Detective A adjusted his body position and pinned the Subject's left arm with both hands to the sidewalk as he pressed his knee into the Subject's left shoulder to prevent the Subject from pulling the arm back under his body.

As the Subject continued to resist, Officer D utilized his right elbow to strike the Subject once in the right ribcage to overcome his resistance. The Subject flinched and told Officer D to stop striking him. Officer D told the Subject to stop resisting. The Subject continued to physically resist and was able to move his right hand toward his face and push off of the sidewalk, which raised his body off of the sidewalk and caused Officer D to fall off of his back. Officer D regained his position on top of the Subject's back. Officer D used his left hand to grab the Subject's right arm, while still pinning the Subject's head down with his left forearm. Officer D then punched the Subject approximately four to five times in his right ribcage area with his right fist to overcome the Subject's resistance.

Note: Detective A did not deliver any strikes or punches to the Subject's body. He did not verbalize any commands to the Subject, as Officer D told the Subject to stop resisting numerous times and did not want to create confusion.

Detective A retrieved his police radio from his belt with his left hand and broadcast their Code Six location and requested backup.

Officer D reached back with his right hand to the right side of his equipment belt and retrieved his handcuffs. Officer D attached one of the handcuffs to the Subject's right wrist.

Uniformed Officers E and F arrived at the scene in response to the back-up request. Both officers exited their vehicle to assist Detective A and Officer D. According to Officer F, the Subject's right hand was positioned on the ground south of his head. Officer F crouched down and grabbed the Subject's right forearm with both hands to help control the arm with Officer D. Officer E placed his bodyweight on the Subject's back and grabbed his left arm along with Detective A.

Seconds later, uniformed Officers G and H arrived at scene and exited their vehicle to assist. Officer G placed his right knee on the Subject's upper right back and utilized bodyweight to assist Officer D to control the Subject.

Note: According to Officer G, he used his right knee as body weight on the Subject's upper right torso area. When asked to elaborate where on the torso area he put his knee, Officer G indicated, the right side of his shoulder.

Note: Officer H stood by as a cover officer with a TASER in the event deployment was necessary. Officer H did not make physical contact with the Subject.

According to Officer E, he and another unknown officer attempted to place the Subject's left arm behind his back, however, the Subject continued to resist and was able to break free and move his arm away.

Officer E grabbed the Subject's left arm again and placed it behind his back. Officer G then brought the Subject's uncuffed left hand toward his cuffed right hand controlled by Officer D. Detective A stood up so as not to interfere with the handcuffing. Officer E, who saw that the Subject's left arm was under control, placed one hand on the left side of the Subject's face and one hand on the top of his head to keep the Subject from raising his head from the sidewalk. Officers G and D maintained body weight on the Subject to control him and completed the handcuffing.

The Subject was rolled onto his side. Officer F conducted a pat down search of the Subject's outer clothing for weapons as he lay on the sidewalk. No weapons were recovered. Officers D and G sat the Subject in an upright position and then assisted him to his feet.

Detective A broadcast that the incident had been resolved and that the Subject was in custody. Uniformed Sergeant A arrived at the scene, and repeated the broadcast, and that no other units were needed. Officers E and F left the scene and returned to patrol duties.

Note: According to all officers at the scene, the Subject never complained of any injury to his body. Sergeant A, while at the scene of the arrest, did not ask the Subject if he was injured, and did not see any obvious signs of injury.

Sergeant A spoke with Detective A regarding the force used to take the Subject into custody, and determined that a non-categorical use of force had occurred. Sergeant A did not speak with Officer D regarding the use of force at scene. Sergeant A initiated a non-categorical use of force investigation, took digital photographs of the scene, and canvassed the area for witnesses. No witnesses were located and businesses in the area were closed.

Officers A and B transported Victim A to the intersection where the use of force had occurred to conduct a field show-up for the Subject. Officer A provided the Subject with the field show-up admonition. Victim A made a tentative identification of the Subject as he was illuminated by flashlight but stated he was not sure. After the illumination was removed, Victim A positively identified the Subject as the subject who attempted to rob him.

Officers A and B conducted a separate field show-up with Witness A, providing him with the field show-up admonition. Witness A made a positive identification of the Subject as the person who attempted to rob Victim A. Sergeant A returned to the station.

After the field show-up was conducted, Officers A, B, and C canvassed the area where the subject was observed fleeing, and observed a blue-steel revolver in a planter in an alley adjacent to the attempted robbery location. The officers notified Sergeant A via radio that they had located a revolver possibly related to the attempted robbery. Sergeant A returned to the scene, the alley, to photograph the revolver and the area where it was located. The revolver was held for latent prints and deoxyribonucleic acid (DNA) analysis. The officers then returned to the station.

Officers G and H transported the Subject to the station for booking. According to Officers G and H, the Subject did not make any statements en route to the station, and never complained to them of injury to his body.

Note: According to the Subject, prior to being placed inside the patrol vehicle for transportation, he complained that his handcuffs were too tight. One of the officers loosened the handcuffs to relieve the pressure.

Officers G and H escorted the Subject to the Watch Commander's office and presented him to uniformed Lieutenant A for the inspection and intake questioning. The Subject did not complain of any injury to his body at that time, but, according to Officer G, the Subject indicated he had a pre-existing medical condition for diabetes and high blood pressure. Lieutenant A gave approval to book the Subject for attempted robbery.

Officers G and H handcuffed the Subject to the detention bench in the hallway and collected his personal property and gave it to Officer I. Officers G and H had no further

contact with the Subject at Hollywood Station. Officers C and I began to process the Subject for booking.

Officer D escorted the Subject into the bathroom to monitor his removal of several layers of clothing for collection as evidence. Officer D collected and searched the clothing, and provided the Subject with jail fatigues to wear. Officer D then escorted the Subject to a holding tank, where he met with Officers C and I.

Note: According to Sergeant A, who observed the Subject during the time he was in the holding tank, he did not ask the Subject if he was injured. The Subject didn't say anything about being injured so he had no reason to believe that he was injured.

While inside the holding tank, the Subject complained for the first time of pain to his left shoulder area. Officer D requested a Rescue Ambulance (RA).

Los Angeles Fire Department (LAFD) personnel responded to the station and provided medical treatment. The Subject was then transported to a local hospital for further medical treatment.

Officer D notified Detective A that the Subject was being transported to the hospital, and Detective A directed Officer D to ride in the ambulance with the Subject. Subsequently, Lieutenant A received information from the hospital that the Subject could possibly be admitted for surgery to his left shoulder. Approximately ten minutes later, Lieutenant A was told the Subject would not be admitted and would be released for booking after further treatment.

Sergeant A drove to the hospital with Detective B to obtain a recorded statement from the Subject, believing the investigation was now a Non-Categorical Level One use of force investigation, based on the Subject's injury and not being admitted. Sergeant A and Detective B returned to the station upon completion of the interview.

The Subject was subsequently admitted into the hospital for a fractured left shoulder and would require surgery. Sergeant B directed Sergeant A to separate and monitor Officer D and Detective A. Sergeant B ordered Officer D and Detective A not to discuss the incident in compliance with categorical use of force investigation protocols. Sergeant Parry also telephonically contacted Officers G and H and ordered them not to discuss the incident.

Note: Officers E and F had also completed their work shifts, but they were not identified as involved officers until after Officers G and H were interviewed by FID, so the order to not discuss the incident was not given to them.

The attempted robbery case against the Subject was presented to the District Attorney's Office for filing consideration. Further investigation was requested prior to the filing of criminal charges. The case against the Subject was ultimately rejected due to a lack of sufficient evidence.

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 and Exhibiting 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 Detective A's and Officer D's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting

The BOPC found Detective A's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Detective A's and Officers D, E, F and G's non-lethal use of force to be in policy.

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Body Armor (Substantial Deviation), Detective A

Detective A responded to an additional unit broadcast for a possible armed robbery subject and did not don his body armor prior to leaving the station. Additionally, Detective A indicated that he was previously involved in field related enforcement activities immediately prior to this incident.

Detective A was at the station and heard Officer C's additional unit broadcast for a possible armed robbery subject (see Additional). Consequently, Detective A was responding in the field to a tactical incident wherein the likelihood of encountering an armed subject was a distinct possibility.

In conclusion, after taking into consideration the totality of the circumstances, it was clear that Detective A was involved in field related activities and was likely to have contact with subject(s). Therefore, the BOPC found that Detective A's action of not donning his vest substantially deviated from approved Department policy and tactical training, without justification.

2. Code Six

Detective A and Officer D did not broadcast their Code-Six location upon their initial contact with the Subject.

Officers are required to balance officer safety considerations against the need to make a timely Code-Six broadcast. That being said, officers must be afforded some discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code-Six broadcast. In this circumstance, Detective A and Officer D observed the Subject and believed that he was the possible robbery suspect. Detective A also believed that he had notified CD he was Code-Six in the area when he asked for additional information on the subject's description. Detective A and D also knew that there were other units that had responded to the area.

However, a broadcast of Detective A and Officer D's observations and location would have been advantageous to alert responding resources. This pertinent information would be beneficial for responding units in order to increase the likelihood of operational success.

In evaluating Detective A and Officer D's actions, the BOPC determined that based on the totality of the circumstances, although improvement could be made, their delay in the Code-Six broadcast did not represent a substantial deviation from approved Department tactical training. However, Detective A and Officer D were reminded of the importance of a Code-Six broadcast and a broadcast of additional pertinent information regarding the suspect's actions and location.

3. Tactical Vehicle Deployment

Detective A drove the police vehicle past the Subject while conducting a search of the area.

Officers are encouraged to position the police vehicle to obtain the greatest tactical advantage while conducting a pedestrian stop. Moreover, proper positioning of the police vehicle, while dealing with a potentially armed subject, is essential to ensure operational success. In this circumstance, Detective A and Officer D observed the silhouette of the Subject but were initially unable to determine if he matched the description of the possible subject.

Upon realizing that the silhouette was possibly the Subject, Detective A positioned his vehicle in a position wherein they would be able to respond to his

actions in a timely manner. Detective A recalled that the officers did not have a clear view of the suspect until they turned north. At that point, the officers were able to discern that the subject that matched the description from the robbery.

A certain degree of latitude must be given to officers when determining the appropriate position of the police vehicle while conducting a pedestrian stop. As a result, the BOPC determined that the positioning of the police vehicle did not substantially deviate from approved Department tactical training.

In conclusion, the BOPC determined that Detective A's deployment of the police vehicle did not constitute a substantial deviation from approved Department tactical training. Nonetheless, Detective A would benefit from a review of the tactical considerations associated with tactical vehicle deployment.

4. Tactical Communication/ Initiating Physical Contact of a Possibly Armed Subject (Substantial Deviation), Officer D

Officer D approached a potentially armed subject without communicating his intentions or observations to Detective A.

When dealing with a potentially armed subject, officers must ensure that officer safety remains at the forefront of the tactical incident. As such, communication between partners ensures that the tactical plan is conveyed thus minimizing the potential for tactical errors. In this circumstance, Officer D exited his police vehicle and observed that the Subject had items in both of his hands. Subsequently, Officer D advanced toward the Subject without communicating his observations and actions to Detective A. Furthermore, Officer D initiated physical contact with a potentially armed subject. As a result, Detective A was at a tactical disadvantage and was forced to adjust his tactics accordingly.

It is the BOPC's expectation that police officers utilize effective communications and sound tactics while dealing with a potentially armed subject. Although Officer D observed unknown items in the Subject's hands, the possibility existed that he was armed. Additionally, Officer D's decision to approach a potentially armed subject left himself and Detective A at a distinct tactical disadvantage and vulnerable to attack. As a result, the BOPC determined that Officer D's decision to approach a potentially armed subject without communicating his observations and actions substantially deviated from approved Department tactical training.

In conclusion, the BOPC determined that Officer D's actions substantially and unjustifiably deviated from approved Department tactical training.

- The BOPC additionally considered the following:

1. Code Three Response

Detective A and Officer D responded to Officer C's additional unit request regarding a possibly armed robbery subject. Detective A believed that Officer C

had requested a backup and responded Code-Three in an unmarked, dual purpose police vehicle without notifying CD. Detective A recalled that Officer C had lost sight of the subject.

Detective A was asked if he notified CD that he was responding Code-Three. Detective A indicated he did not, based on the fact that there were multiple units responding Code 3.

In regards to a back-up request:

- *A specific unit shall be dispatched Code-Three and ALL additional responding units may also respond Code-Three.*
- *Officers should notify Communications Division of their Code-Three response if feasible, with consideration to radio congestion or other factors that occur during emergency situations.²*

As such, Detective A and Officer D are reminded of the importance of the parameters while responding Code-Three.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

The BOPC conducted an objective assessment of this incident and remained focused on ensuring an equitable outcome based on the role and responsibility of all of the involved personnel. The BOPC found Detective A and Officer D's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting

- In this instance, Detective A responded to an attempt robbery radio call where the subject was armed with a handgun. Detective A observed a male matching the description of the attempt robbery subject, exited his vehicle and drew his service pistol because he believed the situation could possibly escalate to deadly force.

² Special Order No. 13, March 31, 2009.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective A, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Detective A's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer D** – Firm Grip, Bodyweight, Physical Force, Takedown, Elbow Strike, Punches

Officer D observed the Subject and utilized firm grip in an attempt to detain the Subject. Subsequently, the Subject, pulled away while turning toward Officer D with clenched fists. Consequently, Officer D administered one punch with his right fist to the Subject's face.

Almost simultaneously, Officer D utilized firm grip with both hands and conducted a takedown of the Subject causing them both to fall to the ground. Officer D then utilized bodyweight as the Subject continued fighting with Officer D. Consequently, Officer D administered one right elbow strike to the Subject's right rib cage to overcome his resistance.

The Subject then raised his body off the ground, which caused Officer D to fall off his back. As a result, Officer D punched the Subject in the ribs with his right hand.

Officer D regained his position on top of the Subject's back and utilized bodyweight in an attempt to control his actions. At the same time, Officer D utilized firm grip with his left hand to grab the Subject's right arm, while also utilizing bodyweight and physical force to hold his head to the ground with his left forearm. Officer D then administered four to five additional punches, with his right fist, to the Subject's right rib cage area to overcome the Subject's resistance.

Lastly, Officer D utilized body weight on the Subject's upper right torso area to control his movements. Officer D subsequently placed one handcuff manacle on the Subject's right wrist. At the same time, Officer D utilized physical force and bodyweight to press his left forearm on the Subject's neck and jaw area to keep the Subject's head from moving. As a result, the Subject attempted to pull both of his hands toward his torso and under his chest. Finally, Officer D utilized physical force to overcome the Subject's resistance and complete the handcuffing process.

- **Detective A** – Bodyweight, Firm Grip

Detective A observed the Subject's turn and attempt to strike Officer D with his left hand.

Officer D and the Subject fell to the ground at which time Detective A responded and utilized bodyweight by placing his left knee into the Subject's left shoulder while utilizing firm grip and physical force to control the Subject's left arm, which he was trying to pull underneath him. Detective A recalled that the Subject was strong, and he believed he was armed, so Detective A was not going to let him put that arm back underneath his chest.

- **Officer E** – Bodyweight, Firm Grip

Officer E utilized firm grip and physical force to grab the Subject's left arm and place it behind his back. Officer E utilized physical force by placing one hand on the left side of the Subject's face and one hand on top of his head to keep the Subject from raising his head from the sidewalk.

- **Officer F** – Firm Grip

Officer F utilized firm grip and physical force to grab the Subject's right forearm with both hands to control the Subject's arm with Officer D.

- **Officer G** – Bodyweight

Officer G utilized bodyweight by placing his right knee on the Subject's upper back and utilized physical force to assist Officer D with controlling the Subject and completing the handcuffing process.

Based on the totality of the circumstances, officers with similar training and experience as Detective A, Officers D, E, F and G would reasonably believe that the non-lethal Use of Force was reasonable in order overcome the Subject's resistance and take him into custody.

In conclusion, the BOPC found Detective A, Officers D, E, F and G's application of non-lethal use of force to be objectively reasonable and in policy.