

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

**OFFICER-INVOLVED SHOOTING – 094-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Foothill	11/11/13		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer D	7 years, 2 months
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**Reason for Police Contact**

Officers were attempting to conduct a traffic stop of a vehicle occupied by possible assault with a deadly weapon subjects. When the subjects' vehicle stopped, Subjects 1, 2 and 3 fled the vehicle. Subject 1 produced a handgun and an officer-involved shooting (OIS) occurred.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit (X)</b>
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Subject 1: Male, 19 years old (wounded).  
Subject 2: Male, 16 years old (not injured).  
Subject 3: Male, 21 years old (not injured).

**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 September 30, 2014.

## **Incident Summary**

Two males wearing dark clothing, Subject 1 and Subject 2, attempted to either break into or steal a vehicle parked in front of a residence. During their attempt, Subject 1 and Subject 2 were confronted by Witness A, the owner of the vehicle, at which time a brief physical struggle ensued between Witness A and Subject 2. Subject 1 then fired two rounds from a silver semiautomatic handgun at Witness A. In fear for his life, Witness A fled toward his residence, at which time he heard approximately three to four additional gunshots. Subject 2 discarded a bicycle that he had ridden to the location and then fled from the scene with Subject 1 prior to the arrival of police officers.

**Note:** The discarded bicycle was recovered and booked as evidence by the officers.

The following day, Subjects 1 and 2 returned to the residence. Subjects 1 and 2 confronted Witness B, Witness A's brother, in the driveway of the residence and demanded the bicycle from the previous evening. Witness B replied that he did not possess the bicycle and both Subjects 1 and 2 yelled their gang's name. Subject 2 then threatened if the bicycle was not returned, he and Subject 1 would shoot up the place. Fearing for his life, Witness B ran towards the front door of his residence, at which time Subject 1 fired two rounds from a handgun, striking Witness B's parked vehicle. Subjects 1 and 2 then fled together on a single bicycle and were observed by nearby residents entering a rear yard of a residence prior to the arrival of police officers who were advised of the subjects' last known location. Additional units were requested and a perimeter was established. The search was initiated; however, the subjects could not be located.

Later that day, a concerned resident called and spoke to Officer A. The caller stated that the shooting subjects from the earlier incident may be at a known gang member hangout located at a residence described to Officer A. The caller added that the people associated with the residence have been observed traveling in a vehicle which he described to Officer A.

Upon receiving this information, Officers A and B decided to follow-up on the caller's information and formulated a plan to locate and monitor the residence described by the caller. Officer A then briefed Detective A, who directed Officers A and B to use an unmarked van to conduct an Observation Post (OP). Detective A also requested updates during the OP. Detective A and Officers A and B then discussed their plan with Lieutenant A, who authorized the implementation of the OP.

**Note:** According to Lieutenant A, he authorized the OP after directing Officers A and B to have their tactical equipment in their vehicle and utilize uniformed officers to support their OP.

According to Detective A, the unit had a policy in which its personnel have at a minimum, body armor, Department firearm, spare magazine, and a radio.

A written tactical plan was not completed for the OP; however, a verbal plan to locate the residence, identify its occupants, and utilize uniformed personnel to conduct a detention of the occupants, if they left the residence, was discussed.

After the briefing, Detective A went to the Watch Commander's office to notify Sergeant A regarding the OP. However, Sergeant A was not present, and after waiting several minutes for him to return to the Watch Commander's office, Detective A returned to his office without making the notification.

After identifying the residence described by the caller, Officer A parked the unmarked van facing south, four houses west of the OP residence. Officer A then telephoned Officer C and requested his and Officer D's support for the OP. According to Officer C, they were available to assist and inquired if Sergeant A or any other Patrol Division supervisor was notified regarding the OP. Officer A replied that Lieutenant A would notify Sergeant A. Officers C and D then responded and parked their police vehicle one block east of Officers A's and B's position.

**Note:** Officers A and B did not inform Communications Division (CD) regarding the OP location.

According to Officer C, Officer A informed him that a caller provided information that the shooting subjects from the incident earlier in the morning were at the residence that Officers A and B were monitoring. Officer A added that the caller had described several males at the residence, some associated with a gang and they have been observed possessing weapons in the past. Officer A also mentioned that a vehicle, not associated with the earlier morning shooting incident, was in the driveway of the residence. Officer A asked Officers C and D to conduct a vehicle stop if the vehicle left the location so as to identify the occupants of the vehicle, if they did not match the descriptors of the shooting subjects.

Officer A called his office and requested Officer E to query the residence via Department database. Officer E queried the address and texted Officer A a photo of Subject 3, who was associated with the residence, along with information that Subject 3 was also possibly associated with the gang. Upon receiving the text with the image of Subject 3, Officer A forwarded the image to Officer C.

Officer A updated Detective A by phone regarding the lack of activity at the residence with the exception of a lone male in the garage of the residence. Officer A then observed Subjects 1, 2 and 3 exit the residence and enter the vehicle. As the vehicle drove west from the residence, he broadcast to Officers C and D regarding the movement of the vehicle containing the subjects.

Officer C drove the police vehicle from their position and past the unmarked van toward the subjects' vehicle. After the vehicle and police vehicle drove past them and were out of sight, Officer A negotiated a U-turn and drove in the same path as the other vehicles.

Officer C decided to conduct a high-risk vehicle stop and believed that Officers A and B would assist based on his previous experience working with Officer A. As the police vehicle approached the next intersection, Officer C obtained a visual of the subjects' vehicle and observed through the rear window of the subjects' vehicle, Subject 2 bobbing his head up and down. Due to his observation, Officer C suggested to Officer D that they follow the vehicle and broadcast a following rather than initiating a vehicle stop. Officer D observed through the subject's rear window Subjects 1, 2 and Subject 3 moving their heads, appearing to look back toward the police vehicle and reaching underneath their seats. Officer D described Subjects 1, 2 and 3's movements as continuous from the moment that Officer D first observed them until the moment when the subjects' vehicle abruptly stopped approximately five seconds later.

As the subjects' vehicle stopped beside the west curb, Officer C activated the police vehicle overhead light bar and unintentionally chirped the siren either after the subjects' vehicle stopped or as the front and right rear doors simultaneously opened. Officer C stopped the police vehicle approximately four feet behind and offset approximately four feet to the left of the subjects' vehicle.

Immediately after the subjects' vehicle came to a stop, Subject 3, the driver, exited and ran in a southeast direction. Officer C quickly exited the police vehicle and pursued Subject 3 on foot while directing him to stop. As he pursued Subject 3, Officer C observed Subjects 1 and 2 exit from the subjects' vehicle.

Officer D exited the police vehicle and observed Subject 1, the front passenger, exit and face away from him. Subject 1 then turned around, exposing a handgun in his right hand near his front waist area, then appear to raise it up to near his chest area. Subject 2, the right rear passenger, then exited the vehicle, and was positioned between Officer D and Subject 1. Officer D yelled out, "Gun, gun, gun," and Subjects 1 and 2 then ran southbound, away from Officer D. Officer D pursued Subjects 1 and 2 in a full sprint and quickly cleared the subjects' vehicle as he ran past it. Through his peripheral vision, Officer D observed Officer C motioning as if to grab onto Subject 3 near the chain link fence, along the east sidewalk.

**Note:** According to Officer D, he intended to assist Officer C in pursuing Subject 3; however, when he observed Subject 1 holding the handgun, Officer D determined that Subject 1 was a priority.

As Officer D continued pursuing Subjects 1 and 2, he observed Subject 1 run onto the street holding the handgun with both of his hands near his waist. Subject 1 then turned his upper torso in a counter clock-wise direction, exposing the left half of his upper torso. Officer D believed Subject 1 intended to shoot Officer C who was to their east, but Subject 1 continued turning counter-clock wise, then pointed his handgun at Officer D's face. In an effort to remove any obstruction between himself and Subject 2, Officer D used both his hands and pushed Subject 2's shoulder, causing him to fall onto the sidewalk on his front side. Officer D stood a few inches to the right of Subject 2, unholstered his service pistol, and directed Subject 2 not to move.

Officer D held his service pistol in two hands and pointed it at Subject 1. According to Officer D, Subject 1 reacted by slightly turning clockwise, blading himself to Officer D. In fear for his life, Officer D fired five continuous rounds in a southeast direction, targeting Subject 1's center body mass from an approximate distance of 31 feet. Officer D stopped shooting as Subject 1 dropped onto the street and released the handgun.

As Subject 3 climbed the chain link fence adjacent to a dirt lot, approximately 50 feet from the police vehicle, Officer C grabbed onto Subject 3's belt with his left hand and placed his right hand onto Subject 3's shoulder area to pull Subject 3 off the fence. Officer C directed Subject 3, who did not resist, down onto the sidewalk. Subject 3 dropped onto his feet from the fence then dropped onto both knees. As Officer C continued to maintain a hold, Subject 3 lay prone and placed his cheek onto the sidewalk. As Officer C stood over Subject 3 and reached toward his rear waist area to retrieve his handcuffs, Officer C heard a single gunshot coming from his right, then Officer D state, "Gun!"

Officer C looked to his right and observed Officer D point his service pistol at Subject 1, who faced Officer D at an angle with his right hand tucked into his chest area. Officer C then heard an additional two to three gunshots and observed Subject 1 fall onto the street in a prone position. Although Subject 3 was not handcuffed, Officer C unholstered his pistol, held it in a two-hand low-ready grip and walked toward Subject 1 who had fallen onto the street.

After discharging his final round, Officer D broadcast, "Man with gun, need some help, shots fired. We have two in custody, we have one running northbound, need some help!"

Officer C approached Subject 1 and observed him bleeding from the arm. Officer C directed Subject 1 to place his hands behind his back and Subject 1 replied that he could not. Officer C holstered his service pistol and handcuffed Subject 1. Officer C conducted a pat-down search of Subject 1 and did not recover anything. Officer D simultaneously holstered his service pistol and handcuffed Subject 2. Officer C requested a Rescue Ambulance for Subject 1.

As Officer A drove south, he observed the police vehicle stopped. Officer A observed Officer D standing on the west sidewalk, holding his service pistol.

**Note:** Officers A and B did not observe the Officer-Involved Shooting (OIS), hear any gunshots or the help broadcast.

Officer A stopped the van along the east sidewalk, approximately 134 feet north of the police vehicle. Officers A and B observed Subject 3 approximately 20 yards away, running toward them on the east sidewalk.

Officers A and B exited the vehicle. Due to his belief that Subject 3 may be a shooting subject based on the subjects' vehicle matching the vehicle description of previous

shootings, Officer A unholstered his service pistol. As Officer A held his pistol in his right hand, he lifted up his shirt with his left hand to reveal his police badge which was clipped onto his front pants pocket. Officer A verbally identified himself as a police officer and directed Subject 3 to stop.

**Note:** Officer B stated he did not don his tactical vest due to his desire to quickly exit the van and identify himself as a police officer before Subject 3 could flee.

Officer A did not possess a tactical vest nor body armor at the time of this incident.

Upon observing Officers A and B, Subject 3 stumbled and went down onto his knees, rotated his body to face south, then went onto his stomach and placed both arms out to his side. Officer A approached Subject 3 with his service pistol at a low-ready position and, upon reaching Subject 3, Officer A holstered his pistol and placed his right knee onto Subject 3's right upper back to prevent Subject 3's movement. Officer B assisted by placing his hands on Subject 3's legs, and Officer A grabbed onto both of Subject 3's arms then handcuffed him with Officer B's handcuffs.

Upon Officer A handcuffing Subject 3, Officer B walked south and observed Subject 1 on the street, bloody and in handcuffs. Officer B observed a silver handgun on the street near Subject 1 on the west sidewalk. Upon arrival of the rescue ambulance, Officer B accompanied Subject 1 to the hospital.

Sergeant B arrived at the scene, subsequent to the OIS. Sergeant B immediately identified that an OIS had occurred and upon the arrival and directed other arriving sergeants to obtain Public Safety Statements (PSS).

### **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 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 made the following findings.

## **A. Tactics**

The BOPC found Officers C and D's tactics to warrant a Tactical Debrief. The BOPC found Lieutenant A, Detective A, and Officers A and B's tactics to warrant Administrative Disapproval.

## **B. Drawing/Exhibiting**

The BOPC found Officers A, C and D's drawing and exhibiting of a firearm to be in policy.

## **C. Non-Lethal Use of Force**

The BOPC found Officers C and D's non-lethal use of force to be in policy.

## **D. Lethal Use of Force**

The BOPC found Officer D's 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. Community Policing

Following the shooting that occurred the morning of the OIS and the conclusion of the perimeter, Officer B spoke with several members of the community regarding the shootings and the officers' search for the outstanding subjects. During one of the conversations, Officer B provided a citizen with his business card. Later that day, the same citizen called and spoke to Officer A. This information led to the capture and arrest of the three ADW subjects.

Officers A and B recognized the importance of working with the community in order to assist with the resolution of a shooting crime spree. The officers' combined interaction with the community in this particular situation helped to stop the shooting sprees, as well as the fear associated with such shootings and exemplifies the BOPC's expectation when dealing with the public.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements can be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents.

## 2. Command and Control

Lieutenant A and Detective A discussed, participated and sanctioned the surveillance operation that was being conducted by Officers A and B. The investigation revealed that there was no written operation plan completed for the surveillance and the Watch Commander (WC) was not notified of the operation. Additionally, the supervisor assigned to oversee the surveillance operation was not monitoring the operation in person or via his handheld radio, and there was inadequate allocation of resources for a surveillance operation of two to three possible ADW subjects with a handgun.

Supervisors are required to assert command and control over any operation or critical incident, in particular a specialized unit. As in any situation, the supervisor's role begins from the onset of an operation or upon being made aware of it. This is the time that supervisors should begin to formulate a plan based on the information known to them at the time and when time allows. Although, there are some questions usually not known until officers arrive at the scene, there are several issues that can be considered before an on-scene assessment can be made and should be of primary concern before the commencement of an operation of this nature.

In this situation, Lieutenant A and Detective A knew the following facts before the commencement of the operation. There were two separate ADW shootings that occurred on two separate days by two or three subjects at the same residence. The reported involved subject from both incidents appeared to be the same brazen shooting subjects that were likely gang members. There was also a description of the possible subject's vehicle used during at least one of the ADW shootings, as well as a possible subjects' location. These facts were ascertained through the preliminary ADW investigations and the information from the citizen, which corroborated the majority of the preliminary investigations.

In evaluating the actions of Lieutenant A and Detective A, as well as their command and control of this incident, the BOPC closely assessed their actions individually and collectively before and during the operation. Additionally, the BOPC took into account their knowledge before and during the operation, the number of resources available on that day, coupled with the involved personnel's activity that transpired from the time of the citizen telephone call to the OIS, which consisted over 60 minutes later. In addition, the Department tactical training related to Observation Post (OP) operations was considered.

### Detective A

As the Assistant OIC of a small detail, Detective A is directly responsible for overseeing and monitoring his officers' actions, including any foreseen likely tactical concerns. In this instance, Detective A received information about two ADW shootings that occurred less than 24 hours earlier from the night watch detective and disseminated that information to his officers for a possible follow-up investigation. Upon receipt of the information from the citizen, Detective A



indicated that he conducted a real quick brief with Officers A and B, followed by a brief to Lieutenant A regarding this operation. According to Detective A, the operation was for Intel gathering purposes, including identifying the car. As the supervisor overseeing the operation, Detective A is responsible for ensuring notification to the WC and monitoring the operation.

The BOPC understands the immediate need to get personnel out to the subjects' residence particularly based on the information freshly received from the citizen informant in regards to the possible whereabouts of the ADW subjects. However, the investigation revealed that the officers had observed one of the possible subjects and the subject's vehicle as described by the citizen, and had relayed their observation to Detective A within the first fifteen minutes of their surveillance.

Detective A was aware of the subjects' propensity for violence and that at least one of the subjects possibly involved in the crimes had been observed at the residence by the officers; therefore, Detective A had a responsibility to allocate adequate additional resources in order to handle the situation in a tactically safe manner. However, the investigation reflects that the officers continued their surveillance of the residence for over 30 minutes longer under the supervision of Detective A without any additional resources being allocated to the operation.

Additionally, Detective A chose to monitor the operation via cell phones, when the involved officers were on a recorded tactical radio frequency which would have maximized his ability to oversee their actions in real-time. The confusion between the involved officers' roles was clearly identifiable over the tactical frequency and may have played a role in the uniformed officers' response to this incident.

However, if Detective A was monitoring the operation via the tactical frequency, he could have likely provided guidance to the officers that would have placed them in the best tactical advantage. This guidance may have countered the initial inadequate allocation of resources sanctioned by Lieutenant A. Detective A failed to provide the proper command and control over this incident when he opted to monitor his officers' activity via his cellular telephone instead of his radio. Furthermore, Detective A did not notify the WC or his designee of the operation. The investigation revealed the WC was never notified of the incident. This lack of notification places other officers in a significant tactical disadvantage in the event it becomes necessary for them to respond.

The role of the supervisor overseeing an operation cannot be understated. Supervisors have a significant impact on officers, before, during and after the incident occurs. This fundamental responsibility must be embraced by the supervisors with respect to command and control of an incident. Such oversight can make the difference in an officer's successful outcome when faced with a life-threatening situation.

In conclusion, after taking into consideration the totality of the circumstances, the BOPC found that Detective A's failure to ensure proper notification to the WC and inadequate monitoring of the operation was a substantial deviation, without justification, from approved Department tactical training, thus warranting a finding of Administrative Disapproval.

#### Lieutenant A

The BOPC reviewed the actions and decisions made by Lieutenant A, as well as his management and leadership of his detective personnel working during the time period this incident transpired. Lieutenant A became aware of the proposed operation through a conversation with Detective A, and Officers A and B. Lieutenant A also had previous knowledge of the two recent ADW shootings that occurred within approximately 14 hours of the OIS.

As previously stated, the BOPC understands the urgency to get personnel out to the subjects' residence based on the information freshly received from the citizen in regards to the possible whereabouts of the ADW subjects. However, Lieutenant A knew that there was a minimum of two subjects involved in the ADW's, and at least one of the subjects was armed with a handgun.

Although Lieutenant A recognized the necessity for the allocation of a chase unit during this OP operation, he failed to adequately deploy the personnel necessary to safely make contact with two or three potentially armed subjects. As a result, Officers C and D were placed in a significant tactical disadvantage.

Additionally, Lieutenant A's notification to his captains, along with Sergeant A, of the operation via email, does not replace a WC or his designee's notification. Supervisors may delegate to their subordinates appropriate portions of their responsibilities, together with equivalent authority; but they may not delegate or relinquish neither their overall responsibility for results nor any portion of their accountability.

In conclusion, after taking into consideration the totality of the circumstances, the BOPC found that Lieutenant A's failure to ensure that the appropriate resources were properly allocated to the operation unnecessarily placed the officers at a significant tactical disadvantage and was a substantial deviation, without justification, from approved Department tactical training, thus warranting a finding of Administrative Disapproval.

### 3. Status and Location Broadcast

Officers A and B did not inform Communications Division (CD) regarding the OP location. Officers C and D placed themselves back on the previous ADW shooting incidents that occurred within 0.3 miles from the OP location.

The purpose of the broadcast is to advise units in the area of their location and the nature of field investigations should the incident escalate and thus

necessitate the response of additional personnel. That being said, officers must be afforded some discretion in determining the appropriate time to make a notification. In this case, Officers A and B were monitoring a location for possible ADW shooting subjects in a mobile OP for approximately an hour and therefore should have informed CD of their current status and location.

Oftentimes, officers are required to balance officer safety considerations against the need to make a timely notification to CD. However, in this case Officers A and B had a sufficient amount of time to update their current location.

Although, the BOPC would have preferred that Officers A and B notify CD upon their arrival to the surveillance location, the BOPC took into consideration that their supervisors had sanctioned the operation. Additionally, the officers believed Detective A would advise the WC of their location, thus notifying Patrol Division of their whereabouts. Moreover, their uniformed component, Officers C and D were in the immediate area and placed themselves in the area where the previous ADW shooting incident occurred earlier that day, which was less than a half a mile away.

Officers A and B's actions of not informing CD of their OP location was a substantial deviation from approved Department tactical training, under this specific set of circumstances, was justified based on their belief that the appropriate notifications were made to the Watch Commander.

However, in an effort to enhance future tactical performance, Officers A and B are reminded of the importance of providing a location to CD, in the event of an emergency.

#### 4. Tactical Planning

The investigation revealed a level of confusion between the role Officers A and B, undercover officers, would fulfill if the apprehension of the subjects were necessary and how Officers C and D, the uniform component, would make contact with the three subjects.

Successful operations are directly related to effective communications and pre-planning. Accordingly, a comprehensive tactical plan should have been discussed with all involved personnel present to reduce confusion of each officer's tactical role during this incident. The BOPC realized at the onset it was paramount for the officers to get to the location as soon as possible in order to follow-up on this credible information. However, following the initial quick and decisive response of officers, the surveillance operation spanned over an hour timeframe and the involved officers had access and used several different forms of communication, one which being a tactical frequency.

It was clear during the review of the tactical frequency, coupled with the officers' statements, that the involved officers did not have a definite plan in the event it

became necessary to takedown the subjects, including what each officer's role would be during that contact. Although, prearranged roles of partner officers are not absolute and at any given time an officer's predetermined role may change depending on the circumstances, in this case, the lack of tactical planning put Officers C and D at a significant tactical disadvantage involving three ADW shooting subjects.

The lack of a discussion placed Officers C and D's lives in unnecessary danger. Although, the officers involved in this incident, when feasible, should have discussed all their tactical options in order to have a clear understanding of each of their roles, the BOPC expected the supervision involved in this incident should have ensured such roles are clarified, whether it is before and/or during the operation.

In some cases communication issues may hinder the tactical operation. However, during this incident, the involved officers adapted effectively and made the necessary corrective actions, limiting the involved officers' exposure to potential safety concerns.

Based on the totality of the circumstances, the BOPC determined that the officers' actions did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance, the BOPC will direct that this topic be discussed during the Tactical Debrief.

#### 5. Back-up request

The investigation revealed none of the involved officers updated their location, nor did they broadcast a Back-up request. After Officer A drove toward the subjects' vehicle and the decision was made to broadcast a following, Officer D, the passenger, did not have sufficient time to request a Back-up until after the OIS. According to Officer C, there was approximately 15-20 seconds that elapsed between the following of the subjects' vehicle to Subject 3 stopping the vehicle and the subjects exiting.

Officers are expected to update their location with CD when the tactical situation allows. During this incident, this would have alerted the additional units and CD of Officers C and D's current status. This short delay prevented the officers from broadcasting their location until after the OIS in order to prevent the subjects' escape.

While policy dictates that officers should request a Back-Up as soon as possible, oftentimes officers are required to balance officer safety concerns with the developing tactical incident. Although Officer D did not immediately broadcast a request for additional resources, his actions did not substantially deviate from approved Department tactical training.

#### 6. Foot Pursuit Concepts (Substantial Deviation)

Officers C and D did not broadcast their foot pursuit and separated from each other, as they dealt individually and simultaneously with the fleeing subjects. In evaluating Officers C and D's decision to initiate a foot pursuit, the BOPC took into consideration several factors. First and foremost, successful operations greatly depend on effective communication and tactical planning. Officers C and D have worked together over a six month period; during this timeframe the officers discussed their approach when dealing with pursuing fleeing occupants from a vehicle. Both Officers C and D agreed they would pursue the driver if such a situation occurred. Officer C followed their previously set plan and pursued the driver of the vehicle. However, Officer D did not follow their plan and pursued Subject 1 who was in possession of a handgun. Officer D intended to pursue Subject 3, the driver, with Officer C; however, changed his focus to Subject 1 due to Subject 1's actions and possession of the handgun.

Based on the rapidly unfolding circumstances with limited options available to Officers C and D and the recognition that Subject 1 possessed a handgun, the BOPC understands Officer D's change in focus.

Furthermore, generally, officers are discouraged from separating from each other while pursuing subjects. Nevertheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to react to the actions of subject. In this situation, the officers were approximately 51 feet from one another at the time of the OIS and could have rendered aid to one another should the need arise.

In conclusion, although the foot pursuit tactics utilized by Officer D substantially deviated from approved Department tactical training, based on the totality of the circumstances, his actions were justified. However, Officers C and D are reminded of the importance of remaining together while encountering potentially armed subjects.

#### 7. Body Armor

Officer A, in undercover attire, did not wear or have body armor in his possession inside of the OP van during this operation. Although, Officer B had his tactical vest inside of the OP van, he did not don the vest during this tactical operation.

Officers are not required to wear any body armor or tactical vests during a surveillance operation. However, the roles of a surveillance officer may change

during the course of an operation, causing the surveillance officers to make contact with a subject. Moreover, there are times when a surveillance officer may not have time to don their body armor or tactical vest. However, in this instance the officers appeared to have sufficient amount of time to don their vest.

The BOPC took the aforementioned information into consideration when evaluating Officers A and B's decisions to not have or don their vest during this incident. Officer A failed to take his tactical vest during an incident involving possible armed felony subjects and did not adhere to the direction of Lieutenant A prior to the operation. Such action was a substantial deviation from approved Department tactical training without justification.

Following the subjects leaving in the vehicle, Officer B, who was inside the back of the OP van during the operation, grabbed the handcuffs from his vest, but did not don his vest. In this case, Officer B's role as a surveillance officer changed to there being a high likelihood of making contact with an armed subject. It further appeared that Officer B had enough time to don his vest, as he took the time to remove his handcuffs from the vest. With that said, although, Officer B had his tactical vest inside the van, his failure to don the vest was also a substantial deviation of approved Department tactical training without justification.

The BOPC was critical of both officers on this matter, that the officers' actions of not having or donning their body armor during this incident unnecessarily exposed themselves to a life-threatening situation involving potentially armed subjects. The BOPC found Officers A and B's actions warrant a finding of Administrative Disapproval.

- 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 that the tactics be evaluated based on the totality of the circumstances.

After a thorough review of the incident, regarding Officers C and D, the BOPC determined there were some identified areas for improvement that did not individually nor collectively substantially deviated from approved Department tactical training. As for Lieutenant A and Detective A, the BOPC was disappointed with their initial response and oversight of this incident unnecessarily compromised the involved officers' safety. Therefore, the BOPC determined their actions substantially and unjustifiably deviated from approved Department tactical training, requiring a finding of Administrative Disapproval. Regarding Officers A and B, the BOPC also determined that their actions substantially and unjustifiably deviated from approved Department tactical training, requiring a finding of Administrative Disapproval. Therefore, 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 with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC found Officers C and D's tactics to warrant a Tactical Debrief. The BOPC found Lieutenant A, Detective A, and Officers A and B's tactics to warrant Administrative Disapproval.

## **B. Drawing and Exhibiting**

- Officers C and D were assigned to a surveillance detail as a uniformed chase unit in a marked black and white police vehicle, regarding ADW shooting subjects. They were in the area as Officers A and B were monitoring the target location in an OP.

During the OP, three males later identified as Subjects 1, 2 and 3 exited the residence and entered a vehicle parked on the driveway. Officers C and D, at the direction of Officer A, followed the vehicle. As the officers approached the subjects' vehicle, the vehicle stopped and the subjects fled on foot. Initially, Officer C was dealing with Subject 3, as Officer D was simultaneously dealing with Subjects 1 and 2. Officer D unholstered his pistol when he observed Subject 1's gun.

Officer C heard the gunshots and redirected his action to Subject 1, leaving Subject 3 unsupervised. Officer C was asked when he drew his service pistol and Officer C recalled, "Immediately after I started walking western across the street after I heard the gunshots and the gun."

Subject 3 ran northbound where he was confronted by Officers A and B. Officer A unholstered his pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, C and D, 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 Officers A, C and D's drawing and exhibiting of a firearm to be in policy.

## **C. Non-Lethal Use of Force**

- **Officer D – Physical Force.**

As Officer D pursued Subjects 1 and 2 on foot, he observed Subject 1 run onto the roadway holding a handgun in both hands near his waist area. Subject 1 then turned his upper torso in a counter-clockwise direction, exposing the left half of his upper torso toward Officer C. Officer D initially believed Subject 1 intended to shoot Officer C who was to their east, but Subject 1 continued turning counter-clockwise, toward his direction and pointed the handgun at him. In an effort to remove any obstruction between himself and Subject 1, Officer D used both hands and pushed Subject 2's shoulder, causing him to fall onto the sidewalk.

After a thorough review of the incident and Officer D's statements, the BOPC determined that an officer with similar training and experience as Officer D would believe the application of non-lethal use of force would be reasonable to remove Subject 2 from the foreground, wherein the use of lethal force became a high likelihood.

- **Officer C – Physical Force.**

After Subject 3 stopped the vehicle, he exited and ran in a southeast direction toward a chain-link fence. Officer C stopped the police vehicle, exited and pursued Subject 3. Subject 3 attempted to evade arrest by climbing a chain-link fence. Officer C grabbed Subject 3's belt with his left hand and placed his right hand onto Subject 3's shoulder area and pulled him off of the fence. Officer C then directed Subject 3 down to the sidewalk and he complied.

After a thorough review of the incident and Officer C's statements, the BOPC determined that an officer with similar training and experience as Officer C would believe the application of non-lethal use of force was reasonable to prevent Subject 3's escape and would have acted in a similar manner.

In conclusion, the BOPC found Officers C and D's non-lethal use of force to be in policy.

#### **D. Lethal Use of Force**

- **Officer D – (pistol, five rounds)**

Officer D exited the police vehicle and initially observed Subject 1 exit the front passenger side of the vehicle. Subject 1 turned toward Officer D's position, exposing a handgun in his right hand near his front waist area. Officer D observed Subject 1 appearing to raise the handgun to chest level. Subject 2, the right rear passenger, then exited the vehicle and obstructed Officer D's view of Subject 1. Immediately after seeing the handgun, Officer D yelled out, "Gun, gun, gun" to his partner, then ran after Subjects 1 and 2 southbound, away from Officer C.

As Officer D continued pursuing Subjects 1 and 2, he observed Subject 1 run onto the roadway holding the handgun with both of his hands near his waist. Subject 1 then turned his upper torso in a counter-clockwise direction, exposing the left half of his upper torso. Officer D believed Subject 1 intended to shoot Officer C who was just east of their location, however, Subject 1 continued turning counter-clockwise, toward Officer D. Subject 1 pointed the handgun in Officer D's direction. Officer D pushed Subject 2 to the ground to remove him from the foreground, drew his pistol and fearing for his life fired five continuous rounds at Subject 1 to stop his actions. Subject 1 fell onto the ground and released the handgun from his hands.



Based on Subject 1 being armed with a handgun and pointing it in the officers' direction, Officer D's decision to discharge his service pistol to protect himself and the life of his partner was objectively reasonable.

In conclusion, an officer with similar training and experience as Officer D would reasonably believe that Subject 1 presented an imminent threat of death or serious bodily injury and therefore the use of lethal force in order to address this threat would be reasonable.

In conclusion, the BOPC found Officer D's lethal use of force to be in policy.