

Incident Summary

Police Officers A and B were in a marked black and white hybrid police vehicle equipped with ballistic door panels and a Digital In-Car Video System (DICVS).

Officers A and B had worked together approximately five times in the past. At the start of their watch, the officers discussed their available weapon systems and general tactics such as foot pursuits, traffic stops, pedestrian stops, vehicle pursuits, and their roles as contact and cover. They acknowledged Officer B was the faster runner, so in the event of a foot pursuit, it was planned that he/she would be the contact officer, while Officer A would provide cover and radio communications.

The officers were conducting crime suppression in the area due to gang and narcotic activity.

Officer A was driving south when he/she drove passed a vehicle driving in the opposite direction. Both officers noted that the vehicle had tinted front windows in violation of California Vehicle Code (VC) 26708. Officer A immediately recognized the front passenger, (Subject 1) from previous contacts and believed the driver (Subject 2) of the vehicle was the mother of Subject 1's children. According to Officer A, he/she believed Subject 1 had an outstanding warrant for his arrest and Subject 2 was on formal probation for possession of a gun, California Penal Code Section 29805. Subject 2 was later identified and it was determined that she was not the mother of Subject 1's children. According to Officer B, Officer A verbalized that one of the passengers in the vehicle was on probation.

Officer A negotiated a U-turn to conduct a traffic stop for the violation. Once behind the vehicle, Officer B ran the vehicle's license plate via the officers' Mobile Digital Computer (MDC), and the vehicle returned with no want or warrant. Officer B broadcast the officers' status and location (Code Six) and provided Communications Division (CD) with the license plate information. Officer A then activated the forward-facing red light. At this time, Officer B activated his/her Body-Worn Video (BWV).

Subject 2 continued driving, appearing to ignore the forward-facing red light and Officer A's two short bursts of the siren. Subject 2 ultimately drove into a parking lot adjacent to a commercial business and stopped in a parking stall. As captured on the officers' DICVS, as the vehicle came to a stop, the right front passenger door opened and Subject 1 exited and ran toward the business. Subject 1 was later interviewed by Force Investigation Division (FID) investigators and stated he ran from the vehicle because he had a loaded semiautomatic pistol in his waistband.

Officers A and B identified that Subject 1 immediately grabbed the front, right portion of his waistband as he ran from the vehicle and formed the opinion that Subject 1 was armed with a gun. Based on the officers' earlier patrolling of this area and prior to their attempted traffic stop, Officer B knew there were civilians in the area and believed that

the business Subject 1 was running toward was open. Therefore, Officer B exited the police vehicle and immediately started running after Subject 1.

Simultaneously, Officer A exited his/her driver's door and joined his/her partner in the foot pursuit. According to Officer A, as he/she exited the police vehicle, he/she unsuccessfully attempted to activate his/her BWV. The officers did not have any communication with each other as they initiated the foot pursuit; however, according to Officer B, he/she could hear his/her partner's footsteps and knew Officer A had joined him/her in chasing after Subject 1. Officer A's BWV depicts that Officer B was approximately fifty feet ahead of Officer A.

Subject 1 ran toward an open vehicular gate of the business. According to Officer B, Subject 1 pumped his left arm as he ran while continuing to clutch his front waistband with his right hand. According to both officers, they paralleled Subject 1 and used vehicles parked in the parking lot as cover as they remained in containment mode with the intent of monitoring Subject 1's movements.

Officer A broadcast that the officers needed back-up and provided their location. As Subject 1 was approaching the open gate, Officer B unholstered his/her pistol as he/she continued to pursue. According to Officer B, he/she believed Subject 1's action of holding his waistband while running was consistent with him possessing a firearm. Officer A yelled commands at Subject 1, who ignored those commands and continued through the open vehicular gate and into the inner parking lot and loading dock area of the business. Believing Subject 1 was armed and running into an open business with civilians possibly present, Officer B followed him through the gate. Officer B then yelled, "Stop, police, police, get on the ground." This was captured on the video footage recovered from Officer A's BWV.

Subject 1 continued to ignore Officer B's commands and ran behind a large metal green container, as he maintained hold of his front waistband.

According to Officer B, he/she approached the green container to obtain cover when he/she saw what he/she believed to be two firearms thrown into the air from behind the green container. At the same time, and as captured on his/her BWV, Officer B heard a loud clanking sound of a metal object striking the green metal container.

The investigation revealed that Subject 1 threw three items into the air. These items were a pistol, a loaded magazine, and a black glove. The magazine and glove went over the fence and into the adjacent property, while the pistol initially landed on top of the green container. As captured on Officer B's BWV, the pistol immediately slid off the side of the container and fell to the ground. The pistol came to rest on the ground in plain view adjacent to the container.

Officer B saw the pistol and alerted his/her partner by shouting, "Gun, gun, gun, gun." Without warning, Subject 1 stepped out from behind the green container near the location of the pistol. From a position of cover behind a smaller metal container,

Officer B pointed his/her pistol at Subject 1 and stated, "Get on the [expletive] ground. Let me see your hands."

Subject 1 ignored Officer B's commands and immediately bent over and grabbed the pistol with his right hand. According to Officer B, Subject 1 grasped the pistol with the muzzle pointed in his/her and his/her partner's direction. Fearing that Subject 1 was intent on shooting him/her and his/her partner, Officer B fired three rounds at Subject 1 from a standing two-hand shooting position. The three rounds were fired in a southerly direction and from an approximate distance of 18 feet. Subject 1 was struck once in the left thigh.

According to Officer B, he/she assessed after each shot and continued firing as he/she identified that Subject 1 was still holding the pistol. After firing his/her third round, Officer B stopped firing as he/she recognized Subject 1 was throwing the pistol into the air and ultimately over the fence as he stepped behind a large, white utility box. Simultaneous to Officer B firing his/her rounds, Officer A had unholstered his/her pistol and stepped through the open vehicular gate. According to Officer A, he/she observed Officer B fire two rounds at Subject 1; however, Officer A did not have a visual of Subject 1 at that time.

Officer B saw that Subject 1's hands were empty as Officer B moved closer to the utility box. Officer B continued moving forward to the edge of the utility box and yelled for Subject 1 to, "Get on the ground. Get on the ground." At the request of his/her partner, Officer A then holstered his/her pistol and broadcast, "Officer needs help, shots fired" and provided the location.

Officer B continued toward the utility box until he/she had a complete view of Subject 1. According to Officer B, he/she wanted to verify that Subject 1 wasn't arming himself with another pistol and to determine whether Subject 1 needed medical attention. Subject 1, who was standing behind the utility box, raised his hands above his shoulders and stated, "I have nothing, stop." Officer B ordered him down to the ground; however, Subject 1 ignored the command, came out from behind the utility box, and stepped toward Officer B. Officer A, who saw Subject 1 ignoring his/her partner's commands and continuing to move in their direction, unholstered his/her pistol a second time.

Both officers repeatedly ordered Subject 1 to get down onto the ground; however, he continued to ignore those commands, continued looking toward them while side stepping in their direction. Officer B maintained a two-handed grip on his/her pistol as he/she held it in a low-ready position and backed away from Subject 1's advancement. Knowing that his/her partner was immediately behind him/her, Officer B directed Officer A to move back as well.

Subject 1 replied to the officer's commands by stating, "It hurts" and "I'm bleeding." The officers continued to order Subject 1 onto the ground as they continued backing up toward the vehicular gate. Subject 1 continued stepping in the officers' direction and ultimately forced the officers through the vehicular gate and onto the sidewalk. Both

officers had observed a large bulge in Subject 1's front left pants pocket and were concerned he could have another weapon on his person.

As a result of Subject 1's ongoing refusal to comply with the officer's orders and their belief that he could still be armed, Officer B told Officer A to deploy his/her TASER. Officer A holstered his/her pistol and unholstered his/her TASER. The officers continued to verbalize with Subject 1 and demanded that he get down on the ground; however, he failed to comply and continued stepping and looking in their direction.

Officer B stated, "You're gonna get tased. Get down on the ground or you're gonna get tased." According to Officer A, he/she believed Subject 1's actions were an attempt on his part to distract the officers and obtain an advantage over them. With that in mind, after hearing the warning issued by his/her partner and seeing Subject 1 continuing to move in their direction, he/she aimed the TASER at the center of Subject 1's back and pulled the trigger.

The TASER darts hit Subject 1 and had an immediate effect. Subject 1's body locked up and he fell to the ground. One dart struck Subject 1 on the left rear of his head while the second dart struck his left, upper arm. The TASER cycled for five seconds before turning off. At this point, Officer B holstered his/her pistol, approached Subject 1, and handcuffed him without further incident. While Officer B was placing the handcuffs on Subject 1, Officer A unintentionally and unknowingly activated the TASER for another five second cycle.

Officer B conducted a cursory search of Subject 1's pockets and then placed him into an upright seated position, while Officer A broadcast a request for a Rescue Ambulance (RA).

As a result of Officer A's back-up request and subsequent call for help, numerous officers responded, secured the scene, and preserved the evidence. One of the responding officers was Officer C. While waiting for the RA to arrive, Officer C applied his/her Hobble Restraint Device (HRD) around Subject 1's upper left thigh to act as a tourniquet.

Sergeants A and B were the first supervisors to arrive at scene. Sergeant A separated Officer B from the incident while Sergeant B did the same with Officer A. Both Sergeants obtained Public Safety Statements (PSS) from their respective officers and continued to monitor them.

After hearing a broadcast that the vehicle Subject 2 was driving had fled from the scene, Officers D and E observed the vehicle near the on-ramp to the Interstate 10 freeway. Prior to the officers activating their emergency equipment, Subject 2 immediately pulled over and activated her hazard lights. The officers confirmed the license plate and placed themselves Code-Six on the vehicle. Once additional patrol officers arrived, Subject 2 was ordered out of the car and into a high-risk prone position. Subject 2 was then taken into custody without incident.

Los Angeles Fire Department (LAFD) personnel arrived at scene and provided emergency medical treatment to Subject 1 for a through and through gunshot wound to his left thigh. Subject 1 was transported to a nearby hospital for medical treatment.

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 firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officer A and B's actions to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officer A and B's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

The BOPC found Officer B's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

The BOPC found Officer A's less-lethal use of force to be In Policy.

E. Lethal Use of Force

The BOPC found Officer B's lethal use of force to be In Policy.

Basis for Findings

In making its decision in this/her matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to

control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this/her case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this/her circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his/her/hers or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

Tactical De-Escalation

- Tactical de-escalation does not require that an officer compromise his/her/hers safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officers A and B had an established tactical plan as it pertained to foot pursuits, which included Officer B being the contact officer and Officer A being the cover officer, as well as the designated communications officer. Due to the vehicle code violation for which Officers A and B were taking enforcement action, Officer B deployed his/her flashlight during daylight hours anticipating that he/she would have to look into the vehicle through the tinted windows. Officers A and B pursued Subject 1 in containment mode due to him possibly being armed with a firearm. After the OIS, as Subject 1 started to walk towards Officers A and B without complying with their commands, Officers A and B planned to have both less-lethal and lethal force options deployed and available.

Assessment – Throughout the incident, Officers A and B assessed the actions of both Subject 1, and Subject 2, who was driving the vehicle. The officers assessed the location where Subject 2 parked the vehicle and the area in which Subject 1 fled into. While firing three rounds from his/her service pistol to stop the threat, Officer B stated he/she continuously assessed and observed Subject 1 still holding onto the firearm. Officer B stated he/she assessed between each round that he/she fired to determine when Subject 1 no longer presented an immediate threat. While conducting an assessment after firing the third round, Officer B observed that Subject 1 threw the firearm over the fence and therefore Officer B stopped firing. Officers A and B continually assessed Subject 1's actions throughout the incident. Following the handcuffing of Subject 1, Officer B conducted an assessment and ensured that Subject 1 was in a seated recovery position due to suffering from a gunshot wound. After Subject 1 was taken into custody, Officer A checked the vicinity for Subject 2 and her vehicle. Determining that the vehicle was gone, Officer A subsequently broadcast relevant information regarding Subject 2's possible direction of travel. Upon arrival at scene, Officer C assessed Subject 1's medical condition and applied his/her HRD to Subject 1's leg to act as an improvised tourniquet and thereby render aid to Subject 1 in an expeditious manner.

Time – Beginning with the observation of the vehicle code violation, Officers A and B used time to their advantage. Even though Officer A had prior knowledge of Subject 1 and his wanted status, officers utilized their time to conduct a DMV vehicle inquiry and want/warrant check on the vehicle, which provided them with more information. Subject 1 escalated the incident by fleeing from the vehicle stop while armed with a firearm. Officer B attempted to de-escalate the situation by identifying himself/herself as a peace officer and giving Subject 1 commands to stop and get on the ground. Prior to engaging in foot pursuit of Subject 1, Officers A and B made a split-second decision as to which vehicle occupant they should focus their attention on. When pursuing Subject 1 in containment mode, Officers A and B used parked vehicles as cover and maintained their distance from Subject 1, giving them additional time to safely resolve the incident. Officer B was aware of his/her surroundings and maintained his/her cover to avoid placing himself/herself in immediate danger while Subject 1 went around the large green metal container. Subject 1 then further escalated the incident when he reached for the firearm after he had thrown it, pointing it in the direction of Officer B while attempting to re-arm himself.

Redeployment and/or Containment – From the initiation of the foot pursuit, Officer B exhibited awareness that Subject 1 was possibly armed and followed Subject 1 in containment mode, utilizing parked vehicles to create distance and time, thereby giving him/her cover. By not following Subject 1 behind the large green metal container and the utility box, Officers A and B contained Subject 1's movements to the corner of the open parking lot. After the OIS, as Subject 1 started to walk towards Officers A and B without complying with their commands, Officers A and B redeployed to create distance between themselves and Subject 1. Once Subject 1 was in the open space, Officers A and B triangulated Subject 1's position and established containment around him.

Other Resources – Officer A broadcast that he/she and his/her partner were in foot pursuit and requested a back-up unit. Officer A and B considered and deployed less-lethal force options during the encounter with Subject 1. After the OIS, Officer A broadcast a help call requesting further assistance. The Air Unit, which responded to the back-up request and the subsequent help call, was instrumental in updating CD relevant to the location of vehicle stop conducted on Subject 1. Additional units responded to the location, contained the crime scene, and preserved evidence. Officer C, who responded as part of the additional units, took a prominent role in providing emergency medical treatment to Subject 1 until the arrival of the LAFD RA.

Lines of Communication – Officer B initiated lines of communication with Subject 1 as soon as Subject 1 fled from the vehicle. Officer B identified himself/herself as a peace officer and continued to give Subject 1 commands while engaged in a foot pursuit. Officer A used radio communication to advise CD and other units that he/she and his/her partner were in foot pursuit and after the OIS, Officer A broadcast a help call. Throughout the incident, Officers A and B utilized open lines

of communication with Subject 1 while faced with the challenge of his non-compliance. Officers A and B communicated with each other throughout the incident. Officer B advised Officer A that there was a firearm involved when he/she observed Subject 1 throw it over the large green metal container. When Subject 1 came out from behind the utility box, Officer B advised Officer A to back up creating distance between the officers and Subject 1. Prior to the lethal use of force, Officer B gave Subject 1 commands on eight different occasions. After the OIS and prior to the discharge of the TASER, Officers issued Subject 1 twenty-four commands and three partial use of force warnings. Upon the arrival of additional units, Officer B directed those additional officers to recover evidence using open lines of communication.

The BOPC determined that due to the rapidly unfolding nature of this incident, the officers had limited time to react to the deadly actions of Subject 1. Officers A and B were required to make decisions that balanced the safety of the community, their own welfare, and containment of a dangerous Subject. Officers A and B reacted swiftly and contained Subject 1, preventing him from accessing and endangering the larger community.

- During the review of the incident, the following Debriefing Topics were noted:

1. Apprehension vs. Containment Mode

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in foot pursuit of an armed suspect.

Officers A and B pursued an armed suspect while in containment mode. Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

In this case, Officers A and B stated they initially followed an armed suspect in containment mode. Instead of following the same path as Subject 1, both officers used parked vehicles as cover. Officers A and B maintained a line of sight to one another and were in close proximity to render immediate aid, if needed. When Subject 1 went behind the large green metal container, Officer B did not follow behind. Instead he/she took a position of cover behind the large green metal container and the smaller green bin maintaining a line of sight with Officer A.

The BOPC also examined the distance between both officers during the incident and determined that no separation occurred, either by distance or barrier.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were reasonable and did not deviate from approved Department tactical training.

2. Approaching an Armed Suspect

Officer B limited his/her ability to react by closing the distance between himself/herself and Subject 1, who had been observed in possession of a firearm. Officer B continued moving toward the utility box until he/she had a complete visual of Subject 1.

When officers encounter a suspect that they believe is armed with a weapon, they are trained to place the suspect into a high-risk prone position to facilitate a safe approach to take the suspect into custody. This tactic provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands, and approach the suspect from a position of advantage.

According to Officer B, he/she could see Subject 1's hands after Subject 1 threw the firearm over the fence and believed there was no longer an imminent threat, but Subject 1 moved behind a utility cabinet. Officer B was concerned that Subject 1 may try to re-arm himself/herself and may also need medical assistance. Officer B cleared the corner of the utility cabinet while utilizing cover when approaching Subject 1. The BOPC considered that this incident was dynamic in nature, that Officer B could see that Subject 1's hands were empty, and that Officer B continued to give Subject 1 commands as he/she approached Subject 1 to take him into custody. The BOPC also noted Officer B's concern that Subject 1 may require medical attention, demonstrating a reverence for human life.

Based on the totality of the circumstances, the BOPC determined that Officer B's actions were reasonable and did not deviate from approved Department tactical training.

3. Utilization of Cover

Officers A and B did not have the benefit of cover after the lethal use of force. The utilization of cover, coupled with distance, enables an officer to confront an armed Subject while simultaneously minimizing their own exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options by using available cover.

Officers A and B gave Subject 1 multiple commands in an effort to take him into custody while they were behind cover. Subject 1 ignored the officers' commands and kept walking towards the officers. The officers responded by redeploying backwards. However, the officers' effective communication between each other allowed them to create distance between themselves and Subject 1, providing Officers A and B more time to react. Once out in the open

area, Officers A and B continued giving Subject 1 commands as Subject 1 continued to move backward and look backward toward both officers. Officers A and B triangulated on Subject 1 in an attempt to improve their tactical advantage.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were reasonable and did not deviate from approved Department tactical training.

4. Use of Force Warning

According to Officer A, he/she did not provide a less-lethal warning verbally to Subject 1 prior to discharging the TASER because Officer A heard Officer B warn Subject 1 multiple times that Subject 1 would be "tased." Additionally, Officer A stated he/she wanted to use the "element of surprise" so Subject 1 would not reach for the item creating the bulge in Subject 1's left front pants pocket. Officer B did not provide a complete verbal less-lethal use of force warning prior to Officer A's application of the TASER on Subject 1.

In this case, Officers A and B provided 24 direct commands to Subject 1 prior to the discharge of the TASER by Officer A, which the BOPC discussed was adequate in this specific instance to satisfy the "command" portion of the less-lethal use of force warning. The BOPC noted that Officer B warned Subject 1 on three separate occasions that he would be "tased." In addition, the BOPC considered that Subject 1 was already wounded as a result of the lethal use of force. The BOPC determined that the partial verbal warning was sufficient given the perceived exigent circumstance to satisfy the use of force warning requirement.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were reasonable and did not deviate from approved Department tactical training.

- The BOPC also considered the following:
- **Tactical Communication** – The investigation revealed that Officers A and B both believed that Subject 1 was armed with a firearm, but neither officer advised the other of their observations prior to engaging in foot pursuit. According to Officer A, he/she did not communicate to Officer B that he/she observed Subject 1 reaching for his waistband because Officer B was in the front of Officer A. According to Officer B, he/she advised Officer A there was a firearm involved after observing Subject 1 throw it in the air. Officers A and B were reminded of the importance of effective communication during a tactical incident to reduce possible confusion and improve operational success.
- **Running with Service Pistol Drawn** – Officer B engaged in a foot pursuit with his/her service pistol drawn. Although this was a dynamic and rapidly unfolding

incident involving a Subject who appeared to be possibly armed, Officer B was reminded that there is a heightened concern for an unintentional discharge when running with a service pistol drawn.

The above topics were to be discussed at the Tactical Debrief.

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

The BOPC found Officer A and B's actions to warrant a Tactical Debrief

B. Drawing and Exhibiting

- **Officer A**

First Occurrence

According to Officer A, as soon as he/she broadcast a request for backup, he/she drew his/her service pistol because Officer A had reasonable suspicion based on prior knowledge that a lot of suspects carry weapons in their waistband, his/her observation that Subject 1 was "going for" his waistband, and his/her belief that Subject 1 had a firearm in his/her waistband.

Second Occurrence

According to Officer A, he/she had heard Officer B discharge his/her service pistol twice. Officer A later observed Subject 1 coming out from cover and gave Subject 1 commands to get on the floor. Subject 1 did not comply with Officer A's orders and kept looking back at him/her and his/her partner. Officer A observed a bulge in Subject 1's left, front pants pocket which Officer A believed was possibly another firearm and he/she drew his/her service pistol a second time while continuing to give Subject 1 commands to get on the ground.

- **Officer B**

According to Officer B, approximately ten feet after he/she took off from the passenger seat of his/her police vehicle, he/she drew his/her service pistol because he/she observed Subject 1 holding his waistband while running. Based on Officer

B's training and experience, such situations have led to firearm recoveries and firearm arrests.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officers A and B's drawing and exhibiting. The BOPC noted that Subject 1's actions presented a potential deadly threat to the community as well as the officers. The BOPC conducted a diligent and individual assessment of each officer's articulation regarding their decision to use lethal force. The BOPC considered Officers A and B's observations of Subject 1 grabbing his waistband and the officers' beliefs that Subject 1 was armed with a firearm based on their training and experience. The BOPC also noted that Officer A's decision to draw his/her service pistol for a second time was subsequent to the escalation of the incident by Subject 1 where deadly force had been used.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, 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.

Therefore, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

- **Officer B – (Physical Force, Firm Grip)**

According to Officer B, he/she approached Subject 1 to take him into custody. Officer B stated that Subject 1 was extremely rigid even after the TASER application was over. Officer B used his/her left arm to grab Subject 1's left arm and pulled it behind Subject 1's back. Officer B used his/her left hand and held Subject 1's left wrist while he/she used his/her right hand to apply a handcuff on Subject 1's left wrist. Officer B used his/her right hand to pull Subject 1's right hand out from underneath Subject 1's chest. Officer B switched grips and with his/her left hand and held Subject 1's right wrist while he/she used his/her right hand to apply a handcuff on Subject 1's right wrist.

The BOPC reviewed each application of non-lethal force by Officer B in this case and determined that the force used was reasonable based on Subject 1's physical resistance. Subject 1 did not comply with the officers' lawful orders to submit to arrest and escalated the incident further when he did not permit Officer B to handcuff him. Having balled up fists and with his arms towards the front of his body, Subject 1 physically resisted Officer B, even after the use of the TASER. The BOPC noted that the force used was not gratuitous and Officer B demonstrated restraint in his/her use of physical force. Throughout the incident, officers issued multiple commands to de-escalate the situation.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome Subject 1's resistance and effect his arrest.

Therefore, the BOPC found Officer B's non-lethal use of force to be objectively reasonable and In Policy.

D. Less-Lethal Use of Force

- **Officer A** – (TASER, two five-second activations in probe-mode)

First Discharge

According to Officer A, Officer B advised him/her to deploy the TASER. Officer A stated that Subject 1 did not comply with his/her orders to get on the ground and kept looking back in his/her direction. Officer A wanted to use the element of surprise and therefore did not give Subject 1 a verbal use of force warning. However, Officer A heard Officer B give Subject 1 multiple warnings. Fearing that Subject 1 was going to re-arm himself with what Officer A believed was a firearm, Officer A discharged his/her TASER in probe mode and aimed at Subject 1's back to de-escalate the situation.

The BOPC determined that the first application of less-lethal force by Officer A was reasonable based on Subject 1's violent actions and the violent threat posed to the citizens at large, as well as the officers at scene. Subject 1 was armed with a firearm and fled the initial traffic stop towards an open business with multiple potential victims. Subject 1 then threw the firearm in the air and attempted to re-arm himself. The BOPC noted that even after being shot and wounded, Subject 1 continued to defy Officers A and B by refusing to follow clear commands.

Furthermore, the BOPC considered Subject 1's argumentative behavior during the use of force warnings and refusal to comply with commands. The BOPC also noted that Subject 1 continued backing up towards the officers and kept looking around and over his shoulder repetitively, which was behavior akin to target acquisition. The BOPC considered both officers' beliefs that Subject 1 was in possession of second firearm or another weapon due to the bulge observed by officers in Subject 1's left pants pocket. The BOPC considered that the application of the TASER, as a de-escalation tool, may have prevented a second use of lethal force.

The BOPC also noted that while the Officer B gave Subject 1 a partial use of force warning, Officer B gave Subject 1 similar warnings on three separate occasions. In addition, the BOPC considered that Subject 1 was already wounded as a result of the lethal use of force and not complying; therefore, the BOPC opined that the officers had sufficiently met the use of force warning requirement. In addition, the officers gave 24 commands and orders following the OIS and prior to the discharge

of the TASER; however, Subject 1 did not comply. The BOPC also considered that Officer A articulated his/her target area for the TASER as Subject 1's back, which is an optimal target area to achieve neuro-muscular incapacitation and take Subject 1 into custody.

With regard to the **First Discharge** of the TASER, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would believe that the same application of less-lethal force would be reasonable to protect themselves and others, and to effect Subject 1's arrest.

Therefore, the BOPC found Officer A's less-lethal use of force of the **First Discharge** to be objectively reasonable and In Policy.

Second Discharge

According to Officer A, he/she only recalled discharging the TASER one time in an effort to take Subject 1 into custody.

When asked by FID investigators how many times Officer A had activated the TASER, Officer A recalled that he/she just pressed the trigger once.

The FID investigation determined that there were two TASER activations by Officer A. The second TASER activation by Officer A occurred while Officer B was handcuffing Subject 1 and both TASER activations were five seconds in duration. The second TASER activation occurred approximately 35 seconds following the first activation.

The BOPC considered several factors during its assessment pertaining to Officer A's second TASER activation. The BOPC reviewed Officer A's BWV and noted that Officer B did not appear to be aware of a second TASER activation as he/she was handcuffing Subject 1, nor did Subject 1's body appear to react to being tased a second time. Furthermore, the BOPC noted Officer B's statement to FID investigators indicated that Officer B was unaware of a second TASER activation, did not hear a second TASER activation, and Subject 1's body did not react as if he was being tased a second time.

The BOPC was informed of the analysis of a Subject Matter Expert (SME) from Training Division regarding the second TASER discharge. The SME had discussed both the mechanical and technical aspects of the use of the TASER and the inspection of the particular device actually used by Officer A. The SME reviewed the materials related to this incident and determined that the TASER appeared to be functioning properly at the time of the incident. The SME was unable to determine if the second activation of the TASER had a physical effect on Subject 1. The SME was also unable to definitively determine if both probes and wires were

connected to Subject 1 in a manner in which the TASER activation completed a connective circuit to allow for Subject 1 to be affected.

In addition, the BOPC considered that Officer A was broadcasting pertinent information to responding units and conducting scene assessments, while also focusing his/her attention on Subject 1 and Officer B's struggle to handcuff Subject 1. Additionally, the BOPC opined that Officer A did not attempt to deactivate the TASER during the second discharge and was seemingly unaware of its occurrence. Neither officer made any commands directed at Subject 1, nor did they coordinate with each other during the second activation. The BOPC opined that the lack of verbal communication between the officers and with Subject 1 indicated that the officers were unaware that the TASER had been activated a second time. The BOPC determined that the second TASER activation was unintentional.

With regard to the **Second Discharge** of the TASER, based on the totality of the circumstances, the BOPC determined that Officers A's actions appeared to be unintentional and did not deviate from approved Department tactical training. In order to enhance future performance, the BOPC directed that the use of a TASER device be a topic of discussion during the Tactical Debrief.

The BOPC found Officer A's less-lethal use of force to be In Policy.

E. Lethal Use of Force

- **Officer B** – (pistol, three rounds)

According to Officer B, while Subject 1 was in the area of the large green metal container, Subject 1 turned over his right shoulder towards Officer B and was continually grabbing his waistband. Officer B believed that Subject 1 was going to pull out a firearm and possibly fire. Officer B attempted to seek cover behind the large green metal container and the smaller green bin. While seeking cover, Officer B could not only hear but could also see what he/she believed to be two firearms thrown in the air. Officer B observed the firearms thrown in the air and heard one metallic clink in the area of the large green metal container. Officer B immediately notified Officer A that there was a firearm involved by stating "Gun, gun, gun."

According to Officer B, he/she heard another firearm come over the large green metal container where he/she was able to see the firearm which was between the large green metal container and the smaller green bin. While looking in the direction of the firearm, he/she observed Subject 1 come out from behind and immediately told Subject 1 to get on the ground. Officer B observed Subject 1 reach for the firearm and could see him pick it up. While picking up the firearm, Subject 1 pointed the muzzle of his firearm in the direction of Officer B. Believing that Subject 1 was going to shoot him/her or his/her partner which could cause serious bodily injury or death, Officer B was in fear for the safety of himself/herself

and his/her partner and fired approximately three to five rounds from his/her service pistol at Subject 1 to stop the threat.

According to Officer B, he/she was constantly reassessing and observed the firearm in Subject 1's hand while firing. Officer B stated that after the third round was when he/she noticed Subject 1 throwing the firearm over the fence and that's why he/she stopped firing. Officer B did not have any imminent threat and could see Subject 1's hands plainly after Subject 1 threw the firearm over the fence.

In this case, the BOPC conducted a thorough review of the investigation. During its review, the BOPC took into consideration that Subject 1 was an active gang member known by the officers to carry firearms. In this incident, Subject 1 was in possession of a firearm and rapidly escalated the incident when he fled from the scene while holding his waistband. Subject 1 threw his firearm in the air and then attempted to re-arm himself when the firearm fell on the ground within close proximity of him. Subject 1 had the opportunity to surrender, but instead came around the utility box towards the firearm. The BOPC opined that Subject 1 was attempting to re-arm himself. Subject 1 picked up the firearm from the ground and pointed it in the direction of Officer B, resulting in an OIS.

The BOPC noted that Officer B continued to assess that the firearm was in Subject 1's hand after firing each round and continued to fire to stop the threat. In addition, BOPC noted that Officer B gave commands to Subject 1 on eight separate occasions prior to the OIS. The commands ranged from Officer B identifying himself/herself as a peace officer to ordering Subject 1 to stop, get on the ground, and show his/her hands.

The incident rapidly escalated due to Subject 1's actions. The BOPC considered the minimal amount of time Officer B had to make decisions based on the imminent threat posed by Subject 1 to the officers and the surrounding business community. The BOPC noted that Officer B articulated his/her perception of an immediate threat, when Subject 1, armed with a firearm, pointed it in the direction of Officer B. Officer B specifically articulated his/her reason for the use of lethal force which was to defend himself/herself and his/her partner. The BOPC also considered Officer B's assessment of Subject 1's actions between each discharged round.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, would reasonably believe Subject 1's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

Therefore, the BOPC found Officer B's lethal use of force to be In Policy.