

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

OFFICER-INVOLVED SHOOTING – 069-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Officer(s) Involved in Use of Force	Length of Service
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Officer D	3 years, 3 months
Officer G	7 years, 1 month
Officer H	5 years, 1 month

Reason for Police Contact

Officers on patrol for gang activity observed the subjects vandalizing the wall of an apartment complex. Officers initiated pursuit of the subjects, which led to an officer-involved shooting.

Subject(s)	Deceased () Wounded (X) Non-Hit ()
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Subject 1: Male, 23 years of age.
Subject 2: Male, 16 years of age.
Subject 3: Male, 19 years of age (Wounded).
Subject 4: Female, 16 years of age.
Subject 5: Female, 15 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 subject 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 August 27, 2013.

Incident Summary

Officers A and B were patrolling for gang-related activity. They were driving when they observed a male, later identified as Subject 1, spray paint and vandalize the wall of an apartment complex. The officers observed Subject 1 finish spray painting the wall and walk toward a black Sport Utility Vehicle (SUV) parked in the roadway. The SUV was occupied by two males and two females, (Subjects 2 through 5).

Officer B drove past the subjects' vehicle and stopped the police vehicle nearly parallel to it. Officer B unholstered his service pistol as he exited the police vehicle and approached the subjects' vehicle from the rear. Before Subject 1 could enter the subjects' vehicle, Officer B ordered him to stop and stand facing the vandalized wall.

With Officer A acting as cover officer, Officer B also ordered the occupants of the subjects' vehicle to exit. Complying with the officer's instructions, Subjects 2, 3, 4, and 5 exited the vehicle and also stood facing the vandalized wall. Officer B recognized Subject 1 as a gang member from a prior contact.

Note: The officers did not broadcast their location to Communications Division (CD).

As they approached the subjects, Officer A assumed the role of contact officer and Officer B transitioned to cover officer. Officer A handcuffed and conducted pat-down searches on Subjects 2 and 3. Officer A did not find any weapons or contraband during his search of Subjects 2 and 3.

As Officer A approached Subject 1, Officer B contacted CD via his hand held radio and requested an additional unit to respond to their location. During this time, Subject 1, who was standing farthest away and had not been searched, started running down the sidewalk. Officers A and B stepped away from Subjects 2, 3, 4, and 5. As Subject 1 fled, Officer B observed him reach and quickly grab his right front trouser waistband with his right hand. Officer B, believing Subject 1 was reaching for a gun, holstered his service pistol and ran after Subject 1. As the CD operator acknowledged the request for an additional unit, Officer B contacted CD and advised that he needed backup at the location for a man with a gun.

Communications Division subsequently broadcast a request for back-up, an air unit, and a supervisor.

As Officer B chased Subject 1, Officer A elected to leave the two handcuffed male subjects and the two unsecured female subjects where they were, and follow behind his

partner. Due to the time lag, and in order to keep up with and not separate from Officer B, Officer A entered the police vehicle and followed the foot pursuit in the vehicle.

As Officer A entered the police vehicle, he observed the other detained subjects also flee from the location. Subjects 3, 4, and 5 fled in one direction while Subject 2 fled in another. As Officer A drove, he observed Subject 2 turn and continue to run. Subject 1 continued to run as well.

From a distance of approximately two to three houses away, Officer B observed Subject 1's right hand move in an under-hand motion from his right waist to his left shoulder area across his chest. It appeared to Officer B that Subject 1 had discarded a dark object, which he believed was a handgun. Subject 1 then stopped running and came to a standstill. Officer B unholstered his service pistol and ordered Subject 1 to lie down on the ground. Officer A, who had joined Officer B by that time, handcuffed and took Subject 1 into custody without further incident.

Meanwhile, Sergeant A arrived at the location and requested the location of the officers involved in the foot pursuit. Officer B responded and broadcast that a subject was in custody and requested an additional unit to respond to his location. Additionally, Officer A broadcast about the additional subjects, including their description and direction of travel.

Sergeant A located the officers involved in the foot pursuit. As Sergeant A was approaching Officers A and B to determine what had occurred, he heard a "shots fired" broadcast (related to the officer-involved shooting (OIS)) and responded to that location. Sergeant A had no contact with Officers A and B.

In the interim, Officers C, D, E, and F were in the police station when they heard the broadcast for the back-up request. While en route to assist, they also heard Officer A's broadcast regarding additional subject information.

Officers E and F were driving northbound, followed by Officers C and D. As they approached mid-block, Officer E looked to his right and observed a male matching the description of Subject 2 standing behind a tree on one side of the street. Officer E immediately alerted Officer F. Officer F stopped the vehicle and both officers exited. Believing Subject 2 was possibly the outstanding subject armed with a gun, Officers E and F exited their vehicle and unholstered their pistols. Officers C and D, who had also stopped and exited their vehicle, were alerted to Subject 2's location by Officer E's commands. They also unholstered their pistols.

Officer E gave Subject 2 commands to walk toward a fence and get down on his knees. Subject 2 complied. Officer D informed Officers C, E, and F that he would approach and make contact with Subject 2. With the other officers covering Subject 2, Officer D holstered his handgun, made contact, and realized Subject 2 was already handcuffed.

Meanwhile, Officers G and H, along with Sergeant B, were at the police station when they also heard the radio call for a back-up request for a man with a gun. Sergeant B

was accompanied by Los Angeles County Deputy Probation Officer (DPO) A as they all responded to assist.

As they responded from the station, they heard Officer A's additional information broadcast. As Officers G and H turned down the street, they were followed by uniformed Officers I and J.

Officers I and J heard the broadcast of a unit in foot pursuit of a man with a gun. While en route to assist, they heard a broadcast that the foot pursuit had terminated, followed by an additional broadcast for subjects.

Officers G and H, followed by Officers I and J, drove utilizing their side spotlights to illuminate both sides of the street. While traveling in the lead police vehicle, Officer H observed and alerted Officer G to a male, later identified as Subject 3, and two females, later identified as Subjects 4 and 5, running. Officer G continued driving past some vehicles parked on the street.

Officer H looked to his right and observed Subject 3 sitting on the rear bumper of the van with his back pressed against the rear hatch. Officer H also observed someone throw themselves on the ground between two vehicles. Officer H alerted Officer G, who stopped their vehicle approximately 20 feet south of the van. They were followed by Officers I and J, who had stopped their police vehicle in the roadway next to the minivan. As Officers G and H exited their vehicle, Officer H verbally alerted the other officers to Subject 3's location. Officer G also alerted Officers I and J to Subject 3's position using hand signals. Officers G, H, I, and J positioned themselves on the driver's side of the minivan.

Officers G and H approached Subject 3 from the driver's side of the van, followed by Officers I and J. Using his Department-issued flashlight for illumination, Officer H observed a female standing next to a tree, near the van. Officer H also observed Subject 3 crawling on his stomach under the parked vehicle. Believing Subject 3 was the subject armed with the gun, as in the original broadcast, Officers G and H unholstered their pistols.

As Officer H gave verbal commands to Subject 3 to show his hands, he realized he was in a poor position of cover. Officers G and H elected to reposition themselves to the passenger side of the van.

As Officer H, followed by Officer G, came around the front passenger side of the van, Officer H observed Subject 4 standing next to a tree. He also observed Subject 5 kneeling by the right rear wheel of the parked vehicle and Subject 3 crawling on his stomach under the vehicle. Officer H alerted the other officers to Subject 3's position and gave commands for Subject 3 to show his hands. Subject 3 did not comply.

Officer J attempted to move to Officer H's position by walking between the van and the parked vehicle. Officer H verbally alerted him to Subject 3's presence under the vehicle. Officer J observed Subject 3's legs protruding out from the front of the vehicle

and immediately stopped, stepped back, and redeployed to the left rear corner of the van. Believing Subject 3 was the subject with a gun from the earlier broadcast, Officer J unholstered his service pistol. With Officers H and J deployed on the left and right rear corners of the van respectively, Officer H again ordered Subject 3 to show his hands. Subject 3 did not comply and continued crawling further under the parked vehicle.

Meanwhile, Officer G focused on Subject 5 and ordered her to get down on the ground. Subject 5 complied. Officer G placed his hand on her back to control her movement and handcuffed her hands behind her back.

In the meantime, Officer H could only see Subject 3's feet protruding from underneath the vehicle. Subject 3 was lying on his stomach with his feet near the vehicle's front passenger tire, and his body angled toward the driver's side tire. As officers repeatedly ordered Subject 3 to stop his actions and show his hands, Subject 3 continued crawling further under the parked vehicle. Fearing that Subject 3 was trying to obtain a gun and shoot at the officers, Officer H holstered his pistol and told the other officers on scene that he was going to pull Subject 3 out from under the vehicle. With Officer J on the left side of the van as the cover officer, Officer H grabbed Subject 3's left foot with his left hand, his right foot with his right hand, and started to pull.

As Subject 3's rear waistband area came into view, Officer H observed that Subject 3's hand was in a fist, like a grip, at which point he saw a metal object, which he thought was a firearm based on the way Subject 3 was holding it. It appeared to Officer H that Subject 3 was going to kill him by shooting back at him. Officer H released Subject 3's right leg from his right hand, unholstered his handgun with his right hand, and, while still holding Subject 3's left foot, fired one round toward the threat in what he believed to be a downward direction.

Note: The investigation determined that Officer H's round did not strike Subject 3. No bullet impacts were found at the scene.

Officer J, who had crouched down so he could view Subject 3, heard someone yell, "Gun." Officer J then observed a dust cloud emanating from the ground. Simultaneously, Officer J heard a loud gunshot. Officer J said that as he stood up he saw a handgun in the hand of the subject that was underneath the car. It was in Subject 3's left hand and was facing in his direction. Officer J thought the Subject had just shot at him. According to Officer J, he believed Subject 3's hand position was gripping the gun and his trigger finger/index finger was on the trigger. Officer J saw what appeared to him to be the cylinder of a revolver. Officer J fired one round toward Subject 3 in a downward direction.

Note: Subject 3 was handcuffed and unarmed when the OIS occurred. The investigation revealed that Officer J's round struck Subject 3 in the lower back area.

After Officer J discharged his service pistol, he observed Officer H place his knees on Subject 3's back in an attempt to handcuff him. Officer J holstered his pistol and crossed over Subject 3's legs in order to assist Officer H in handcuffing Subject 3.

Just prior to the OIS, Sergeant B and DPO A arrived. Sergeant B observed two black and white police vehicles parked in the middle of the street. Sergeant B parked his police vehicle directly behind the second police vehicle. Believing the officers were confronting a man with a gun related to the foot pursuit, and that there was a likelihood that he would encounter an armed subject, Sergeant B exited his vehicle and unholstered his pistol. DPO A also exited the police vehicle, unholstered his pistol, and positioned himself near the left front area of the parked vehicle.

Sergeant B observed Officer J positioned to the rear of the van and Officer H on the curb of the street. Sergeant B attempted to seek cover by crossing the front of his vehicle and walk toward Officer J's location. As he did so, Sergeant B heard shots being fired and observed a shell casing in the air. Sergeant B stepped back and redeployed to ensure he was not in the line of fire. A short while later, Sergeant B heard "Suspect in custody" and observed Officer H pull Subject 3 to the curb from the gutter area. Sergeant B holstered his pistol, approached Subject 3's location, and determined that an OIS had occurred.

Sergeant B broadcast that shots had been fired and that he needed units to stay where they were. A request for an ambulance was also broadcast.

After hearing the first round being discharged, Officer I unholstered his pistol and redeployed to the front of the van. After hearing the second round being discharged, Officer I deployed to the front passenger side of the van. As he proceeded along the right side of the van, Officer I observed Subject 3 being taken into custody. Simultaneously, Officer I observed Subject 4 by the right rear wheel of the van. Subject 4 was lying in a prone position with her hands on top of her head. Believing that Subject 4 might be involved with Subject 3, Officer I holstered his pistol and placed handcuffs on her. Officer I then walked Subject 4 to his black and white police vehicle and secured her there.

After the OIS, DPO A walked to the rear of the parked vehicle and redeployed himself to the west side of the vehicle. He observed Officer G standing with Subject 5, who was handcuffed. DPO A holstered his pistol, took custody of Subject 5, walked her across the street, and placed her in a black and white police vehicle.

Sergeant B then approached Officer H to determine if all subjects had been taken into custody. As he approached Officer H, Sergeant B heard Officer H spontaneously state, "Damn...I thought he had a gun...It looked like a gun...But [it] was the cuffs."

Note: Officers H and J reported to investigators that they were unaware that Subject 3's hands were cuffed behind his back with stainless steel handcuffs at the time of the OIS.

As Sergeant B managed the situation, which included requesting an RA for Subject 3, determining officer involvement, and preserving the crime scene, Sergeant A arrived on the scene. Sergeant B advised Sergeant A that an OIS had occurred and that he was a percipient witness. Sergeant A assumed the role of supervisor at scene and separated the involved officers as Sergeant B made the necessary notifications. Sergeant A obtained Public Safety Statements (PSS) from the involved officers and instructed them not to discuss the incident.

As officers on the street were taking Subject 2 into custody, they heard the help call broadcast. Officer C advised Officers E and F that she and her partner Officer J had Subject 2 in custody and directed them to respond to the scene where officers needed help. Officers E and F responded to the location and observed Subject 3 laying on the sidewalk, bleeding. Officers E and F stood by for the RA.

Los Angeles City Fire Department (LAFD) received the alarm and responded to the location, and personnel arrived on scene and provided emergency medical treatment to Subject 3. Subject 3 was transported to a local hospital, where he was treated for a single gunshot wound to his lower back.

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). 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 A, B, H, and J's tactics to warrant administrative disapproval, and Officer G's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, B, G, H, and J's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officer G's use of non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officers H and J's use of lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Vehicle Deployment

In this instance, the position of the police vehicle limited the officers' ability to utilize the ballistic vehicle doors as cover. The BOPC considered that gang members are known to carry weapons and often times have a propensity toward violence, but acknowledged that an allowance for an appropriate amount of discretion must be given to the manner in which officers deploy when involved in observation enforcement activities. Although incidents that involve gang members have the propensity to escalate beyond that of other public contacts, the BOPC determined that the manner in which Officers A and B deployed did not constitute a substantial deviation from approved Department tactical training.

In conclusion, Officers A and B could benefit from a review of the tactical options and considerations associated with the detention of known gang members.

2. Code Six

Officers A and B observed Subject 1, who they recognized to be a gang member, spray painting graffiti in a rival gang territory and initiated the field investigation without first advising CD of their status and location. The purpose for providing a timely broadcast indicating status and location is to ensure that other units in the area are aware of your location in the event the incident escalates and the response of additional personnel resources becomes necessary.

The BOPC evaluated the specific circumstances of the incident and determined that a Code-Six broadcast was warranted prior to initiating the field enforcement activities because of the gang-related nature of the vandalism and that Officers A and B recognized Subject 1 as a gang member from a prior contact. Officer A recalled that he knew Subject 1 was a member of one gang and was "tagging on" the rival gang.

The BOPC acknowledged that Officer A made a broadcast requesting the response of an additional unit. This was done, however, a significant time after the initial contact, when Subject and the four occupants of the subjects' vehicle had already been placed against the wall and two of them had been handcuffed and searched. Although officers must be afforded some discretion in determining

the appropriate time to make the Code Six notification, a balance must be maintained to ensure a sufficient level of officer safety in every circumstance.

It is the BOPC's expectation that a delay in making a Code Six broadcast occur primarily when it would not be tactically feasible prior to initiating the field contact or when the spontaneous nature of the incident prohibit the ability to do so. In this case, the broadcast should have been made prior to initiating the contact, especially given the gang-related nature of the observed offense and the number of detainees.

In conclusion, the BOPC found that the lack of a Code Six broadcast in this instance substantially deviated from approved Department tactical training without justification.

3. Foot Pursuit Tactics/Contact and Cover

In this instance, Officers A and B had worked together for approximately two years and routinely discussed tactical concepts. With regard to their specific roles of contact and cover on the day of the incident, Officer B indicated that normally the passenger is the contact officer.

Although the roles of contact and cover are not absolute and at any given time an officer's predetermined role may have to change from cover to contact officer, the concept of providing protection to one another cannot be compromised. When Officer B ran after Subject 1, Officer A was left behind with Subjects 2 and 3, who were handcuffed and searched, along with Subjects 4 and 5, who were neither handcuffed nor searched. Officer A made a conscious decision to leave the four detainees where they were, entered his police vehicle and drove after his partner.

The BOPC evaluated the decision by Officer A to utilize the police vehicle while his partner engaged in the foot pursuit and determined that it was appropriate since his intention was to "*catch up*" to Officer A. This action was consistent with approved Department tactical training in that partner officers should be able to render aid to one another when confronted by a subject.

Given Officer A's belief that he was slower than his partner, he jumped in his car so he could catch up to his partner.

Officer B placed his partner in a compromised position when he initiated the foot pursuit without communication with Officer A. In order to prevent separation from his partner, Officer A was forced to leave the four detainees alone, two of whom had not been searched.

Officer A felt he had to leave the detainees in place. Although he did not want to leave them because they were also suspects at the same time, Officer A had to

follow his partner because the officers were trained to stay with one another in case a crime was committed.

Although Officer A's actions substantially deviated from approved Department tactical training, it was justified in that the only alternative was to become separated from his partner. Officer B created the circumstance when he independently initiated the foot pursuit. Officer A was forced to rapidly assess the potential consequences of his options to either engage in the foot pursuit or remain with the four detainees, which would certainly result in separation and his inability to render aid to his partner. Officer A understood the tactical disadvantages associated with failing to maintain control of Subjects 2, 3, 4 and 5; however, Officer A assessed the potential eventualities and the safety of Officer B was of paramount concern.

In conclusion, Officer B was responsible for the tactical shortcomings associated with the foot pursuit. The decision to engage in the foot pursuit without tactical support of his partner substantially and unjustifiably deviated from approved Department tactical training.

4. Supplemental Information Broadcast

In this instance, Officers A and B traversed approximately 730 feet as they pursued Subject 1. Officer B broadcast the initiation of the foot pursuit, the change in direction and its conclusion. After taking Subject 1 into custody, Officer A broadcast the description and last known direction of travel of the fleeing subjects. Most concerning to the BOPC was that neither broadcast included information that two of the fleeing subjects were handcuffed. The omission of this information in each instance created a circumstance wherein responding personnel were not fully aware of the evolving tactical situation.

When circumstances warrant a response of additional personnel, as occurred in this instance, it is vital that the responding units possess optimal information as to influence their ability to properly respond and make the most appropriate tactical decision.

In conclusion, the BOPC found that the failure to provide this pertinent information to the responding units substantially deviated from approved Department tactical training without justification.

5. Approaching an Armed Subject

In this instance, Officers H and J located Subject 3 on his stomach, crawling under the vehicle. They believed Subject 3 was armed and actively attempting to evade arrest, yet they placed themselves within three feet of Subject 3 without cover. Orders were issued to Subject 3 by both officers to show his hands; however, Subject 3 ignored their commands and continued crawling further under the vehicle. At this juncture, although Subject 3 posed a threat to the

officers, Subject 3 was effectively contained under the vehicle. Without any efforts made to obtain a better visual of Subject 3 or develop a tactical plan, Officer H holstered his service pistol and notified the officers at the scene of his intention to pull Subject 3 out from under the vehicle and closed the distance.

In conclusion, the BOPC determined that Officers H and J's actions substantially deviated from approved Department tactical training without justification. The BOPC directed that these topics be discussed during the Tactical Debrief.

- The BOPC also considered the following:

- Search of Vehicle

The FID investigation did not reveal whether the vehicle was searched by Officers A and B prior to initiating physical contact with the detainees. As such, this will be a general topic of discussing during the Tactical Debrief.

- Radio Broadcast (Incorrect Location)

In this instance, as Subject 1 ran down the street, Officer B broadcast a back-up request. The BOPC noted Officer B broadcast the correct location approximately 10 seconds prior as part of the additional unit request. Officer B is reminded that it is vital CD has accurate information to facilitate the response of additional personnel and so that officers can properly respond and make the most appropriate tactical decisions.

- Utilization of Flashlights

While Officer H and his partner drove, Officer H reported using his flashlight to illuminate the area. While attempting to secure his flashlight in his pocket and simultaneously draw his service pistol, Officer H dropped his flashlight; therefore, he was not in possession of it during the OIS. The investigation did not reveal whether additional personnel at the scene utilized a flashlight to illuminate the vehicle.

- Tactical Communication

Officers G and H deployed around the front of the minivan to the passenger side and observed Subjects 3, 4 and 5. With Officers G and H focusing their attention on Subjects 3 and 5, respectively, Subject 4 was left unmonitored. Officers G and H did not advise the officers at scene of Subject 4's presence. After the OIS, Officer I deployed to the passenger side of the minivan and observed Subject 4 lying in a prone position with her hands on top of her head next to the rear passenger tire of the minivan. Officer I holstered his service pistol and handcuffed Subject 4 without incident.

- Simultaneous Commands (Non-Conflicting)

As Subject 3 was concealing himself under the parked vehicle, Officers H and J reported yelling at Subject 3, *"Let me see your hands!"* Officers are trained to utilize the concept of contact and cover where one officer gives the verbal commands while the other provides cover. In this instance, the commands were non-conflicting and appropriate in the effort to de-escalate and resolve the incident without further conflict. Nevertheless, the BOPC will direct that this topic be discussed during the tactical debrief.

- Stable Shooting Platform

As Officer H pulled Subject 3 out from under the parked vehicle, Officer H observed what he believed to be Subject 3 pointing a handgun in his direction. Officer H immediately released his hold on Subject 3's right leg and drew his service pistol. Officer H maintained his hold on Subject 3's left leg to "keep [Subject 3] off balance" and fired one round at Subject 3. Officer H is reminded of the importance of pistol grip and shooting stance.

- Preservation of Evidence

At the termination of the foot pursuit, Officer B observed Subject 1 discard a dark object, which he believed to be a handgun. Subject 1 was then taken into custody without further incident. A subsequent search of Subject 1's person and the immediate area surrounding him were conducted, and a gun was not located. With the shots fired broadcast heard shortly thereafter, and all nearby personnel responding to provide assistance, Officers A and B included, a thorough search of the location where the dark object was observed thrown was not conducted until a few hours later with the assistance of personnel from a specialized division. Officers A and B were reminded of the inherent risks and dangers an unattended weapon poses to the public.

- Tactical Deployment

The BOPC determined that Officers A and B could benefit from a review of tactical deployment concepts relative to contact/cover, specifically as it relates to positioning to limit escape routes and provide enhanced control of detained suspects.

- 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.

This case resulted in significant discussion. Those discussions focused on the actions of Officers A, B, H and J as they pertain to approved Department tactical training and Department expectations. The BOPC concurred with the critical

evaluation of the actions of Officers A, B, H and J and concurred that their actions substantially deviated from approved Department tactical training without justification.

As for Officer G, the BOPC determined that his actions did not substantially deviate from approved Department tactical training and that a Tactical Debrief is the appropriate mechanism for the above officer to discuss the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

The BOPC found Officers A, B, H, and J's tactics to warrant administrative disapproval, and Officer G's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Officers A and B observed Subject 1 spray painting gang graffiti on an apartment complex wall. Both officers noted the gang graffiti was from a rival gang and that a vehicle with four occupants was parked along the north curb adjacent to Subject 1.

Officer B recalled that as he exited the vehicle, he unholstered his weapon because he felt that whenever gang members come to rival areas they carry guns for protection of other gang members.

Officer A recalled that Subject 1 was "tagging on" the rival gang, which claimed that geographic area. After Subject 1 assumed a position facing the building, according to Officer A, the officers took the subjects out of the vehicle, and Officer A drew his weapon because he believed the situation could escalate to where the use of deadly force could be utilized.

When Subject 1 ran down the street, Officer B observed him reaching toward his waistband area, resulting in Officer B broadcasting a back-up request for a "*415 Man with a Gun.*" Officers A and B holstered their service pistols and followed Subject 1. When Subject 1 was approximately two to three houses north of a particular street, he made a tossing motion and abruptly stopped. Officers A and B drew their service pistols, ordered the Subject into a prone position and took him into custody without further incident.

In the interim, Officers G, H and J were responding to the area and heard Officer A's broadcast of additional subjects fleeing. The aforementioned officers drove and ultimately located Subjects 3, 4 and 5, who were attempting to conceal themselves behind and under parked vehicles. As Officers G, H and J exited their respective vehicles to detain the subjects, they drew their service pistols.

Officer H ordered Subject 3 to show his hands; however, Subject 3 ignored the officer's commands and continued crawling further under the parked vehicle. Officer H holstered his service pistol, grabbed Subject 3 by both feet and began to pull. When Subject 3's waistband area came into view, Officer H observed what he

thought to be a handgun pointing in his direction. Officer H once again drew his service pistol.

The BOPC determined that an officer with similar training and experience, 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, B, G, H and J's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer G** – Physical force

When Officer G began issuing Subject 5 commands to put her hands up and, as he did so, two shots emanated immediately from the east. Officer G looked to his right and saw that Subject 3 had been removed from under the vehicle and was handcuffed; therefore, he refocused his attention on Subject 5. Officer G then ordered her to assume a prone position and Subject 5 complied.

As Officer G approached Subject 5, he placed his left hand on the center of her back to keep her from getting up and handcuffed her. Subject 5 recalled saying “all right” when the officers commanded her to get on the floor. Subject 5 indicated the officers “just threw” her, and she landed on her face.

Subject 5 sustained an abrasion to her lip and complained of pain to her jaw. Subject 5 did not receive medical treatment and was released to the custody of her mother.

Based on the totality of the circumstances, officers with similar training and experience as Officer G would reasonably believe that the use of non-lethal force in order to overcome Subject 5's resistance and take her into custody would be justified.

In conclusion, the BOPC found Officer G's application of non-lethal force to be in policy.

D. Lethal Use of Force

- **Officer H** (pistol, one round)

Officer H heard a broadcast over the radio of a unit in foot pursuit of a “Man with a Gun.” As Officer H and his partner responded to the back-up request, Officer H recalled there being an additional broadcast for an outstanding subject. The Subject was wearing black over black, 5'8”, and he was running from location. As the

officers drove, Officer H observed Subjects 3, 4 and 5 run across the street and out of view.

Officer H recalled an additional broadcast that there was another subject running with two females, and he believed he was seeing the subjects right in front of him. With Subject 3 matching both the physical and clothing descriptors of the armed subject, the officers proceeded to drive slowly and ultimately located Subject 3 in a prone position attempting to crawl under the front of the parked vehicle.

With his service pistol drawn, Officer H issued two commands to Subject 3 to show his hands. Subject 3 ignored Officer H's commands and continued to crawl, further concealing himself under the parked vehicle. At this point, Officer H's visual of Subject 3 consisted of his right ankle and two feet.

Officer H recalled being afraid that Subject 3 still had his gun on him and was possibly trying to obtain the gun to shoot one of the officers.

As Officer J provided cover, Officer H holstered his service pistol and grabbed Subject 3's left foot with his left hand, his right foot with his right hand, and began to pull. Once Subject 3's waistband came into view, Officer H observed that Subject 3's hand was in a fist, like a grip. Officer H observed a metal object, which he thought was a firearm; it looked like the slide to a gun. The way Subject 3 was holding his fist backward towards Officer H stated that it made it appear to him that Subject 3 was going to kill Officer H. Officer H also indicated that the gun was pointed at his center mass chest or lower abdomen area.

Fearing for his life, Officer H released his hold on Subject 3's right leg and drew his service pistol. Officer H maintained his hold on Subject 3's left foot as he simultaneously fired one round at Subject 3. Officer H let go of Subject 3's left leg, took two steps back and, after seeing that Subject 3 was no longer a threat, holstered his pistol.

Officer H recalled that the second round was fired immediately afterward by Officer J. Subject 3 indicated, "I got shot. I got shot," and was not attempting to resist.

Therefore, an officer with similar training and experience as Officer H would reasonably believe that Subject 3 posed an immediate threat of serious bodily injury or death and that the use of lethal force would be justified. In conclusion, the BOPC found Officer H's use of lethal force to be in policy.

- **Officer J** (pistol, one round)

Officer J heard a broadcast over the radio of a gang unit in foot pursuit of a man with a gun. While Officers I and J responded, Officer J reported hearing a broadcast that the incident had concluded.

Officer J believed there were additional subjects running from the gang unit.

Officers G and H stopped their vehicle in the middle of the roadway, exited and ran, with Officer H stating as he ran, "*He's right over there.*" Although Officer J did not have a visual of the individual Officer H was referencing, Officer J ran after the officers in order to provide any needed assistance.

As the officers deployed around the parked vehicle, Officer J observed Subject 3's leg protruding out from under the front of the vehicle and drew his service pistol. Officer J lowered his center of gravity to obtain a visual of Subject 3's hands. Simultaneously, Officer J heard an unknown officer yell, "*Gun.*" Officer J then observed a dust cloud emanate from the ground, heard a gunshot, and observed what he believed to be a handgun pointed in his direction.

As soon as Officer J heard, "*Gun,*" he saw dust on the ground move in his direction as though a bullet passed right by him, and simultaneously he heard a gunshot. Officer J believed he saw a handgun in the hand of Subject 3, who was facing his direction. He thought that the subject took a shot at him, and he was scared. Subject 3's index finger was on the trigger, and Officer J saw what appeared to be a cylinder, so he believed Subject 3 was holding a revolver.

Officer J opined he had been fired upon by Subject 3. In response, Officer J fired one round at Subject 3. After discharging his pistol, Officer J no longer saw Subject 3 armed with a gun and believed that Subject 3 had dropped the gun.

The BOPC determined that an officer with similar training and experience as Officer J would reasonably believe that Subject 3 posed an immediate threat of serious bodily injury or death and that the use of lethal force would be justified.

In conclusion, the BOPC found Officer J's use of lethal force to be objectively reasonable and in policy.