

# OFFICE OF THE INSPECTOR GENERAL 2005 ANNUAL REPORT REGARDING CATEGORICAL USES OF FORCE

## INTRODUCTION

Consent Decree paragraph 142 requires the Board of Police Commissioners (BOPC) to annually issue a public report detailing its findings regarding Categorical Use of Force (CUOF) incidents. Pursuant to this requirement, the Office of the Inspector General (OIG) has prepared this annual report (Report) detailing the findings of the BOPC relative to CUOF incidents reviewed during 2005.

Consent Decree paragraph 13 originally defined “Categorical Uses of Force” as:

“. . . (i) all incidents involving the use of deadly force by an LAPD officer (“OIS”); (ii) all uses of an upper body control hold by an LAPD officer and can include the use of a modified carotid, full carotid or locked carotid; (iii) all uses of force by an LAPD officer resulting in an injury requiring hospitalization, commonly referred to as a law enforcement related injury or LERI incident; (iv) all head strikes with an impact weapon; (v) all other uses of force by an LAPD officer resulting in a death, commonly known as a law enforcement activity related death or LEARD incident; (vi) and all deaths while the arrestee or detainee is in the custodial care of the LAPD, commonly referred to as an in-custody death or ICD. In addition, under current LAPD policy, a canine bite is not a use of force. However, for purposes of this agreement only, a categorical use of force shall include all incidents where a member of the public is bitten by a canine assigned to the LAPD and where hospitalization is required.”<sup>1</sup>

On June 2, 2005, the United States District Court approved amendments to Consent Decree paragraph 13. These amendments revise paragraph 13 to exclude Negligent Discharges and On-Duty Animal Shootings from the definition of Categorical Uses of Force.<sup>2</sup> It is the intent of the Los Angeles Police Department (LAPD) to continue to thoroughly investigate all officer involved shootings. However, Negligent Discharges and On-Duty Animal Shootings do not always warrant the immediate response and the level of investigative resources as do other officer uses of force. The responsibility for investigating Negligent Discharges and On-Duty Animal Shootings has been transitioned from Force Investigation Division (FID) to Divisional Commands.<sup>3</sup> However, FID retains the discretion to conduct an immediate response and investigation of Negligent Discharges and On-Duty Animal Shootings.<sup>4</sup> Although the

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<sup>1</sup> The LAPD has adopted this classification of incidents and included them in the 2005 LAPD Manual, Volume 3, §794.10.

<sup>2</sup> “The term ‘Categorical Use of Force’ means (i) all incidents involving the use of deadly force by an LAPD officer, except for non-tactical accidental discharges and animal shootings; . . .”

<sup>3</sup> The procedure for handling Off-Duty Animal Shootings is provided for under LAPD Manual, Volume 4, §204.80.

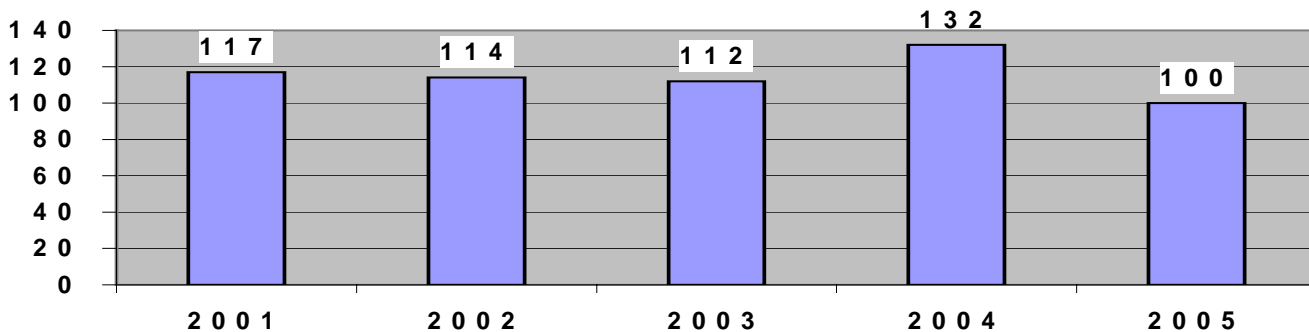
<sup>4</sup> Special Order No. 2, January 5, 2006, revises the LAPD Manual to reflect the amendments to Consent Decree paragraph 13 approved by the United States District Court on June 2, 2005.

responsibility for investigating Negligent Discharges and On-Duty Animal Shootings is, for the most part, shifting away from FID, the adjudication process will remain the same. The Chief will continue to recommend findings to the BOPC, and the OIG will continue to review these incidents to ensure that the investigations are comprehensive and to make recommendations to the BOPC.

**STATISTICAL OVERVIEW OF CATEGORICAL USES OF FORCE THAT OCCURRED IN 2005**

The primary focus of this report is incidents involving Categorical Uses of Force reviewed by the BOPC during 2005. However, the following data provide an overview of incidents involving Categorical Uses of Force that occurred during 2005.<sup>5</sup> Similar data for the previous four years is included for comparison. The yearly total number of incidents involving Categorical Uses of Force remained relatively consistent from 2001 to 2003, increased in 2004 and decreased in 2005 (117 in 2001, 114 in 2002, 112 in 2003, 132 in 2004, and 100 in 2005). The following chart includes Negligent Discharges and On-Duty Animal Shootings in the total number of Categorical Uses of Force for comparison purposes.

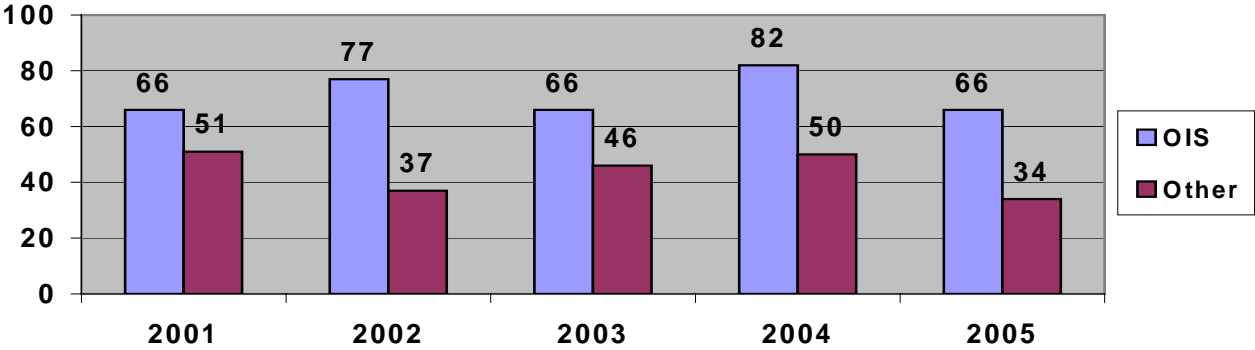
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Of the 117 CUOF incidents that occurred in 2001, 66 (56%) of these incidents involved an Officer Involved Shooting (OIS). Of the 114 CUOF incidents that occurred in 2002, 77 (68%) of these incidents involved an OIS. Of the 112 CUOF incidents that occurred in 2003, 66 (59%) of these incidents involved an OIS. Of the 132 CUOF incidents that occurred in 2004, 82 (62%) of these incidents involved an OIS. In 2005, there were 78 incidents involving a CUOF, excluding Negligent Discharges and On-Duty Animal Shootings. Of these 78 incidents, 44 (56%) involved an OIS. The following chart includes Negligent Discharges and On-Duty Animal Shootings in the total number of OIS incidents for comparison purposes.

<sup>5</sup> Special Order No. 34, issued on October 12, 2005, deactivates the use of the term Law Enforcement Activity Related Death (LEARD) and provides for all incidents resulting in the death of an individual during an incident involving LAPD officers to be referred to as an In-Custody Death (ICD). Thus, for purposes of this report, all incidents previously referred to as a LEARD are included in the totals for ICD incidents.

OIS and Other Categorical Uses of Force 2001-2005



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The Department is split into various Bureaus, and each Bureau is made up of various Divisions/Areas. The following table illustrates the number of Categorical Use of Force incidents that occurred in 2005 by Bureau and Division. The Categorical Uses of Force are divided into types: officer involved shooting (OIS); law enforcement related injury (LERI); in-custody death (ICD); upper body control hold (UBCH); head strike with an impact weapon (HS); and police canine bite resulting in hospitalization (K9).

	OIS	LERI	ICD	UBCH	HS	K9
<u>Central Bureau:</u>						
Central	1					
Hollenbeck		1			3	
Rampart	2					
Newton	4	1	1		1	
Northeast	6	1				
<u>South Bureau:</u>						
77 <sup>th</sup> Street	9	1			4	
Harbor	2	3			1	
Southeast	8	2			1	
Southwest	4				1	
<u>West Bureau:</u>						
Hollywood	1	1	2			
Pacific						
West Los Angeles			1		1	
Wilshire	2		2			
<u>Valley Bureau:</u>						
Devonshire	1			1	1	
Foothill	1			1	1	
Mission		1			1	
North Hollywood						
Van Nuys	1	1			1	
West Valley						
Metro Jail			1			
Outside the City	1			1		

## **OFFICER-INVOLVED SHOOTINGS**

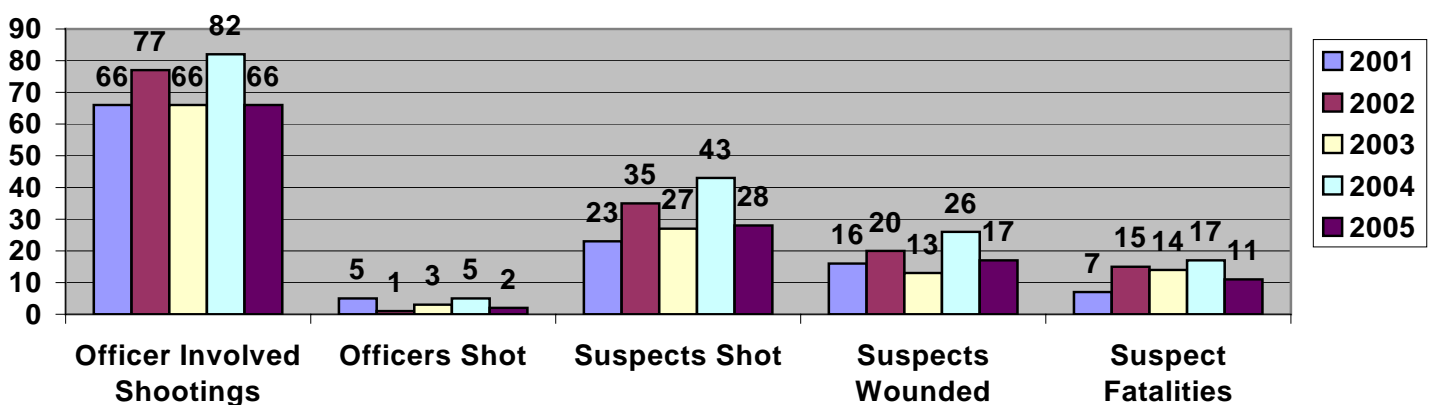
In 2001, officers were involved in 66 shooting incidents, 57 of which occurred while the involved officers were on-duty and nine of which occurred while the involved officers were off-duty. In 2002, officers were involved in 77 shooting incidents, 65 of which occurred while the involved officers were on-duty and 12 of which occurred while the involved officers were off-duty. In 2003, there were 66 shooting incidents, 59 of which occurred while the involved

officers were on-duty and seven of which occurred while the involved officers were off-duty. In 2004, there were 82 shooting incidents, 76 of which occurred while the involved officers were on-duty and six of which occurred while the involved officers were off-duty. In 2005, there were 44 shooting incidents (excluding the six Negligent Discharges and 16 On-Duty Animal Shootings<sup>6</sup>), 42 of which occurred while the involved officers were on-duty and two of which occurred while the involved officers were off-duty.

Of the 66 incidents involving an OIS in 2001, 10 were Negligent Discharges and 22 were On-Duty Animal Shootings. Of the 77 incidents involving an OIS in 2002, 10 were Negligent Discharges and nine were On-Duty Animal Shootings. Of the 66 incidents involving an OIS in 2003, eight were Negligent Discharges and 14 were On-Duty Animal Shootings. Of the 82 incidents that involved an OIS in 2004, six were Negligent Discharges and 20 were On-Duty Animal Shootings. There were six incidents in 2005 that involved a Negligent Discharge and 16 incidents that involved an On-Duty Animal Shooting.

Suspects were shot in 23 incidents involving an OIS in 2001; 35 incidents in 2002; 27 incidents in 2003; 40 incidents in 2004; and 27 incidents in 2005. Incidents involving an OIS resulted in seven suspect fatalities in 2001; 15 suspect fatalities in 2002; 14 suspect fatalities in 2003; 17 suspect fatalities in 2004; and 11 suspect fatalities in 2005.<sup>7</sup> Officers were shot in five incidents involving an OIS in 2001; one incident in 2002; three incidents in 2003; five incidents in 2004; and two incidents in 2005. No officers were killed in OIS incidents in 2001, 2002, 2003 or 2005. One officer was killed in an OIS incident in 2004. Also in 2004, there was a total of four by-standers hit by gunfire during three OIS incidents. In 2005, there was one by-stander/hostage that was shot and killed in the course of an OIS incident. The following chart includes Negligent Discharges and On-Duty Animal Shootings in the total number of OIS incidents for comparison purposes.

**Officer Involved Shooting Incidents 2001-2005**



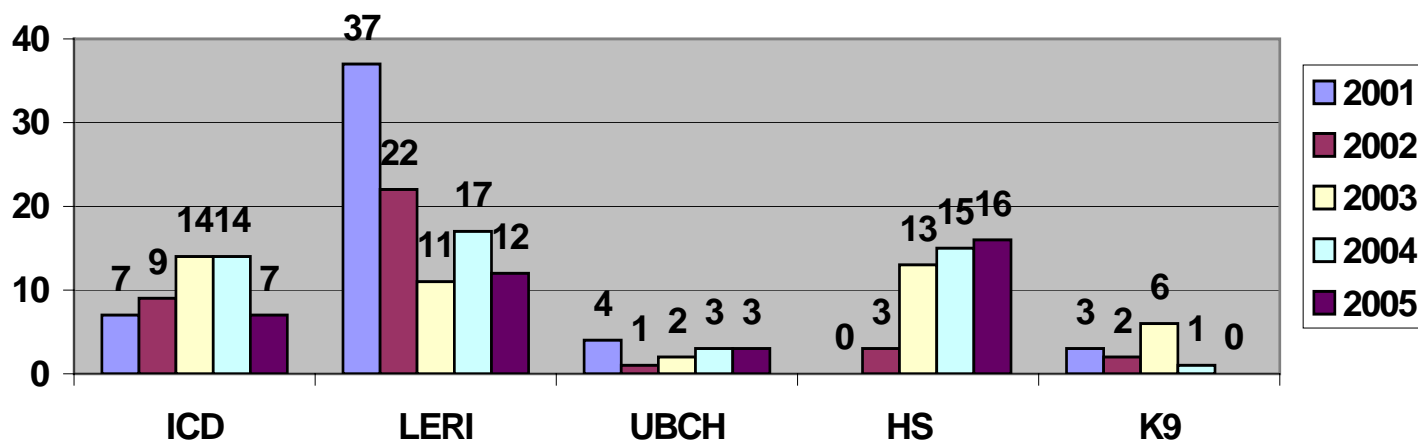
<sup>6</sup> All of the Negligent Discharges and twelve of the sixteen On-Duty Animal Shootings that occurred in 2005 occurred after the June 2, 2005, amendment to the Consent Decree.

<sup>7</sup> In 2005, there were five incidents during which officers fired at suspects, but the suspects fled. So, for these five incidents, it is uncertain whether the suspects sustained any type of injury as a result of the officers' gunfire.

## OTHER CATEGORICAL USES OF FORCE

Other (non-OIS) Categorical Uses of Force include ICD's, UBCH's, K9's, LERI's and HS's. Of the Categorical Uses of Force that occurred in 2001, 44% were non-OIS Categorical Uses of Force. These consisted of seven ICD's, four UBCH's, three K9's, and 37 LERI's. Of the Categorical Uses of Force that occurred in 2002, 32% were non-OIS Categorical Uses of Force. These consisted of nine ICD's, one UBCH, two K9's, 22 LERI's and three HS's. Of the Categorical Uses of Force that occurred in 2003, 41% were non-OIS Categorical Uses of Force. These consisted of 14 ICD's, two UBCH's, 11 LERI's and 13 HS's. Of the Categorical Uses of Force that occurred in 2004, 38% were non-OIS Categorical Uses of Force. These consisted of 14 ICD's, three UBCH's, 17 LERI's, 15 HS's and one K9. Of the Categorical Uses of Force that occurred in 2005, 44% were non-OIS Categorical Uses of Force. These consisted of six ICD's, two UBCH's, 10 LERI's, 12 HS's, one incident involving both a HS and an ICD, two incidents involving both a HS and a LERI, and one incident involving both a HS and an UBCH.<sup>8</sup>

**Other Categorical Uses of Force 2001-2005**



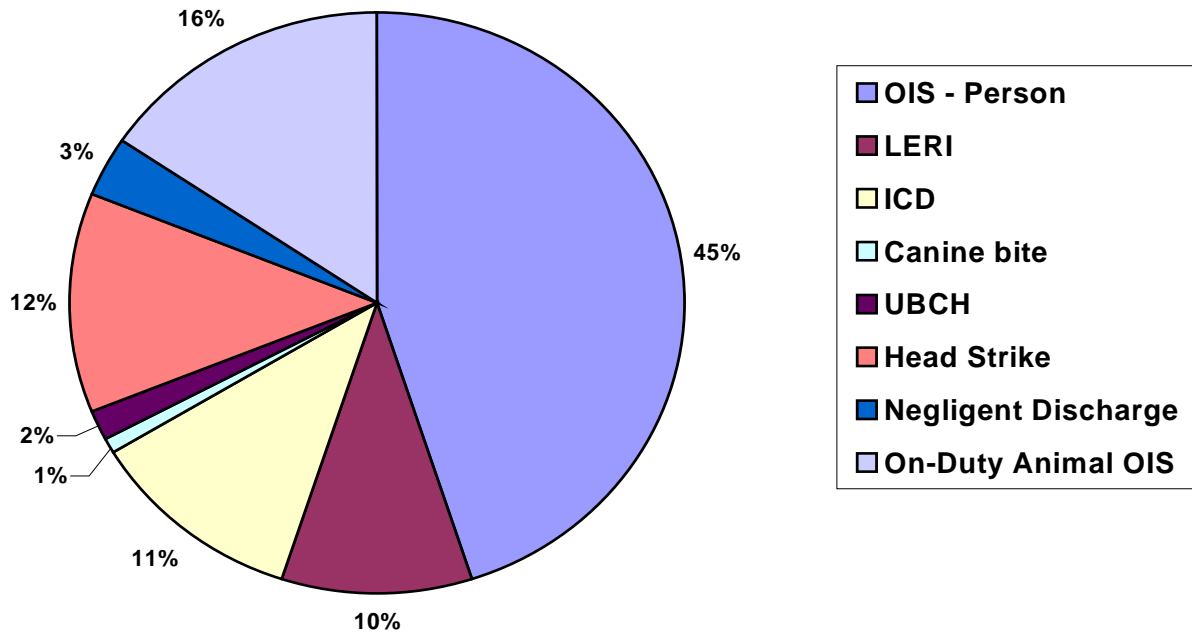
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<sup>8</sup> The following chart represents the occurrence of each type of use of force. Thus, the incident that involved both a head strike and an ICD is included both in the number of head strikes and the number of ICD's; the incidents that involved both a head strike and a LERI are included both in the number of head strikes and the number of LERI's; and the incident that involved both a head strike and an UBCH is included both in the number of head strikes and the number of UBCH's.

**CATEGORICAL USES OF FORCE REVIEWED BY THE  
BOPC DURING 2005**

During 2005, the BOPC reviewed 122 CUOF incidents.<sup>9</sup> These consist of 78 OIS's (including 55 incidents where an officer intentionally discharged a firearm at an individual, four Negligent Discharges and 19 On-Duty Animal Shootings); 12 LERI's; 15 HS's; 14 ICD's; one K9; and two UBCH's.

**Categorical Uses of Force Reviewed by the Commission in 2005**



The BOPC reviews CUOF incidents for a) tactics, b) drawing, exhibition and holstering a firearm, and c) all involved uses of force. No “in policy” or “out of policy” *finding* is made in relation to tactics. However, a determination is made regarding the *action* required in relation to officers’ tactical performance. Officers’ tactics can be deemed to require “no action,” “informal training,” “formal training” or “administrative disapproval.” For drawing/exhibition/holstering, the BOPC determines whether the involved officers’ actions conformed to Departmental policy and issues a finding of “in policy, no action,” “in policy, informal training,” “in policy, formal training” or “out of policy, administrative disapproval,” accordingly. For uses of force, the BOPC issues a finding of “in policy, no action,” “in policy, informal training,” “in policy, formal training,” “negligent,<sup>10</sup> administrative disapproval” or “out of policy, administrative

<sup>9</sup> Absent justification for tolling the statute of limitations of an incident, the BOPC has up to one year from the date of an incident to adopt findings regarding the appropriateness of the actions of the involved officer(s). The statute of limitations for an incident may be tolled for a limited number of reasons, including pending criminal investigation/prosecution and pending civil litigation.

<sup>10</sup> On July 12, 2005, the Board of Police Commissioners accepted and filed the Department’s Report dated June 28, 2005, regarding the terminology for non-tactical discharges of firearms. This Report provides that a “discharge resulting from a violation of the (firearms) safety rules” shall be referred to as a “negligent discharge,” and “an

disapproval,” accordingly. If a weapon was not drawn or no force was used, a finding of “does not apply” is made. Findings relative to canine bites requiring hospitalization are “consistent with established criteria” or “not consistent with established criteria.”

If there is a finding of “administrative disapproval” for tactics, drawing/exhibiting/holstering, or use of force, a complaint investigation will be initiated against the officer(s) in question. The complaint investigation can result in a finding of “Unfounded,” “Exonerated,” “Not Resolved,” “Sustained,” “Sustained – No Penalty,” “Insufficient Evidence to Adjudicate,” “Withdrawal by the Chief of Police,” or “Other Judicial Review.” If the finding of the complaint investigation is “Sustained,” the officer(s) in question may be disciplined. The forms of discipline include an Admonishment, an Official Reprimand, Suspension, Demotion, Discharge or Termination, or the officer(s) may be referred to the Board of Rights.

## **TACTICS**

Of the 122 CUOF incidents reviewed by the BOPC in 2005, 15% (18) resulted in a finding of no action for tactics for all officers involved; 50% (61) resulted in a finding of divisional training for tactics for at least one of the involved officers; 29% (35) resulted in a finding of formal training for tactics for at least one of the involved officers; and 19% (23) resulted in a finding of administrative disapproval for tactics for at least one of the involved officers.<sup>11</sup> The 23 incidents which resulted in a finding of administrative disapproval for tactics involved the tactics of 45 officers.

As of the writing of this report, the complaints initiated as a result of the administrative disapproval findings for tactics against ten of the 45 involved officers have not yet been fully adjudicated. The complaints against the remaining officers resulted in eight of the officers receiving an Admonishment; fifteen of the officers receiving an Official Reprimand; one of the officers receiving a determination that the officer’s Actions Could Have Been Different; three of the officers receiving a one-day suspension; one of the officers receiving a two-day suspension; one of the officers receiving a five-day suspension; one of the officers receiving a seven-day suspension; and three of the officers received a 10-day suspension. The OIG noted that a complaint was not initiated against one of the officers receiving a finding of administrative disapproval for tactics within the one-year statute.<sup>12</sup> The OIG contacted the Department and was informed that the complaint was not issued as a result of an administrative oversight.

Those cases in which there was a finding of “administrative disapproval” for tactics are summarized as follows.

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unintentional discharge when all safety rules are followed, e.g. a mechanical breakdown of a weapon” shall be referred to as an “accidental discharge.”

<sup>11</sup> Six incidents resulted in a finding of formal training for at least one officer and a finding of administrative disapproval for at least one officer. Four incidents resulted in a finding of divisional training for at least one officer and administrative disapproval for at least one officer. Seven incidents resulted in a finding of formal training for at least one officer and a finding of divisional training for at least one officer.

<sup>12</sup> ACC 061-04. The acronym “ACC” is used to identify incidents involving an accidental or negligent discharge.

#### OIS 008-04

Officers A and B went in foot pursuit of a suspect who Officer A observed was in possession of a handgun. The officers caught up to the suspect outside an apartment and struggled to gain control of him. During the struggle, the suspect broke free, drew his handgun and pointed it at the officers. Officer A fired a total of three rounds from his service pistol at the suspect. The suspect sustained gunshot wounds and was pronounced dead at the scene.

The BOPC was critical of Officers A and B for failing to advise Communications Division of their status and location and failing to request a backup for an armed suspect. The BOPC was also concerned with the lack of communication between the officers. The BOPC was critical of Officer A for his decision to “tie up” with an armed suspect, for attempting to obtain the suspect’s handgun prior to the suspect being handcuffed, for tossing the suspect’s handgun in the vicinity of where two additional suspects had been after the OIS, and for failing to de-cock his service pistol prior to holstering it. The BOPC also noted that the officers failed to assign a responding officer to secure the suspect’s handgun. The BOPC found Officer A’s tactics to be deficient, requiring administrative disapproval. The BOPC found Officer B’s tactics to require training.<sup>13</sup>

The BOPC found Officers A and B’s drawing/exhibiting/holstering and nonlethal use of force to be in policy, no action; and Officer A’s use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officer A’s tactics, a complaint investigation was initiated. The complaint resulted in a finding of “Sustained,” and Officer A received an “Admonishment.”

The Chief’s Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for tactical training at Continuing Education Division as a result of this incident.

Subsequent to the adjudication of the incident, both officers received 32 hours of “Officer Safety/Field Tactics” training.

#### OIS 012-04

Officers attempted to conduct a traffic stop, but the suspect failed to stop. The officers initiated a vehicle pursuit. The suspect drove around the vicinity of his residence where he had earlier been in a verbal domestic dispute. The suspect drove slowly, stopped in front of the residence, and exchanged words with his family who were in the front yard each time he drove by. Multiple officers and Sergeants A, B and C responded to the scene to assist with the incident. On two occasions when the suspect stopped in front of his residence, Officer A crept out into the street to the suspect’s vehicle and slashed the back tires of the suspect’s vehicle. However, this did not completely disable the vehicle, and the suspect continued to drive around in a circle on the streets surrounding his residence. Officer B arrived at the scene and took a position with the family in front of the residence. As the suspect drove by the residence, Officer

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<sup>13</sup> The Chief had recommended that both officers’ tactics be found deficient and require administrative disapproval.

B conversed with the suspect and obtained information regarding the suspect's mental status and intentions. This information was not broadcast to the other officers at the scene.

Sergeant A was in contact with Captain A by telephone. Captain A directed Sergeant A to have the officers block both ends of the street on which the suspect's residence was located to contain the suspect. Once the suspect drove onto the street in front of his residence, the officers moved their vehicles into position blocking both ends of the street. The suspect saw that he was blocked in, put his vehicle in reverse, backed up and collided with Officer C's police vehicle. Officers in the vicinity of the blockade scrambled to get out of the way of the suspect's backing vehicle. The collision pushed Officer C's vehicle back approximately one car length. The suspect then began to move his vehicle forward. Officer C stepped up toward the suspect's vehicle and directed the suspect to turn the engine of his vehicle off. The suspect continued to move his vehicle very slowly forward. Officer C fired a total of five rounds at the suspect. Other officers in the vicinity ran for cover to avoid being caught in a crossfire when they observed Officer C draw and fire. The suspect's vehicle then came to a stop. The officers were eventually able to get the suspect's driver side door open and take the suspect into custody. A Rescue Ambulance responded to the scene. The suspect was transported to the hospital and treated for multiple gunshot wounds.

The BOPC was critical of Officer C for approaching the possibly armed suspect without cover after the collision and without having notified other officers of his intentions. The BOPC also noted that Officer C's deployment next to the suspect's vehicle placed him in a crossfire situation with other officers. The BOPC would have preferred that Officer C had attempted to take a position of cover. The BOPC was critical of Officer A for, contrary to supervisor directions, approaching the suspect's vehicle on two occasions to puncture the rear tires without advising other officers of his intentions. The BOPC found Officers A and C's tactics to be deficient, requiring administrative disapproval.

The BOPC would have preferred that Officer B had broadcast the information she obtained in her conversations with the suspect. The BOPC noted that Watch Commander Sergeant A did not respond to the scene and direct the incident. In addition, Sergeants B and C, as the supervisors at the scene, did not clearly establish command and control of the incident. The BOPC found that Officer B and Sergeants A, B and C would benefit from additional tactical training at Training Division.

The BOPC found Captain A's direction to use police vehicles to block the roadway to be appropriate and to require no further action.

The BOPC found Officer C's drawing/exhibiting/holstering to be in policy, no action.

The BOPC found that it was not reasonable for Officer C to believe that the suspect presented an immediate threat at the time he fired at the suspect. Officer C did not sufficiently assess the situation after the suspect's vehicle collided with the police vehicle to ensure that the use of lethal force was being used as a last resort. In addition, Officer C created a crossfire situation in which other officers were at risk of being struck by Officer C's rounds. The BOPC found Officer C's use of lethal force to be out of policy, administrative disapproval.

Based on the finding of administrative disapproval for Officers A and C's tactics and Officer C's use of lethal force, complaint investigations were initiated. The complaint initiated against Officer A resulted in a finding of "Actions Could Have Been Different" with no penalty. Officer C was found "Guilty" of the allegation of unauthorized tactics and unauthorized force at a Board of Rights and received a 10-day suspension.

The Chief's Report for this incident indicates that, in addition to an findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and C for formal tactical training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received four hours of "Suspect Tactic & Perimeter Containment" training, a total of four hours of "Tire Deflation" training and one hour of "Use of Force and Crisis Intervention Tactics" training.

Subsequent to the adjudication of the incident, Officer B received 10 hours of "Shooting Situations" training, one hour of "Use of Force and Crisis Intervention Tactics" training and one hour of "Pursuit Intervention Techniques for Officers" training.

Subsequent to the adjudication of the incident, Sergeant A received one hour of "Use of Force and Crisis Intervention Tactics" training and one hour of "Pursuit Intervention Techniques for Supervisor" training.

Subsequent to the adjudication of the incident, Sergeant B received one hour of "Pursuit Intervention Techniques for Supervisor" training and one hour of "Use of Force and Crisis Intervention Tactics" training.

Subsequent to the adjudication of the incident, Sergeant C received four hours of "Suspect Tactic & Perimeter Containment" training, one hour of "Pursuit Intervention Techniques for Supervisor" training and one hour of "Use of Force and Crisis Intervention Tactics" training.

Subsequent to the adjudication of the incident, Officer C received 32 hours of "Officer Safety/Field Tactics" training, one hour of "Use of Force and Crisis Intervention Tactics" training, two hours of "Shooting at/from a Moving Vehicle (End of Pursuit)" training and one hour of "Shooting at a Moving Vehicle (Video)" training.

#### HS 015-04

Officers A and B responded to an "attempt suicide" call. Officers C and D arrived at the location shortly after Officers A and B. The officers observed the suspect holding a knife to his torso and making suicidal threats. Officers C and D took cover behind Officers A and B's police vehicle, and Officer C drew his service pistol. Sergeants A, B and C responded to the scene, and Sergeant B assumed the role of Incident Commander. The suspect exited his van and began to walk away from the officers up the driveway toward a back residence. Officers A and B pursued the suspect on foot. After being instructed twice not to get involved by other sergeants at the scene, Sergeant C climbed over a fence in an attempt to retrieve a duffel bag from the suspect's vehicle that the suspect had requested. The suspect became upset and advanced toward Officers

A and B while waiving the knife around. Officer A fired a total of four rounds from the beanbag shotgun at the suspect. Due to the suspect's movements, the last beanbag round struck the suspect on the side of the face. A Rescue Ambulance responded and transported the suspect to the hospital where the suspect was admitted for observation, and, subsequently, for a 5150 Welfare and Institutions Code mental evaluation hold.

The BOPC was critical of Sergeant C for scaling the fence to retrieve the suspect's duffel bag without notifying the Incident Commander of his intentions and without obtaining the Incident Commander's approval. The BOPC found Sergeant C's tactics to be deficient, requiring administrative disapproval.

The BOPC noted that Sergeants A and B and Officers A and B simultaneously attempted to communicate with the suspect, creating possible confusion. Sergeants A and B also became involved in the incident as opposed to maintaining their roles as supervisors. Officers A and B did not advise the other officers at the scene of their intentions to follow the suspect as he proceeded up the driveway. The BOPC found that Sergeants A and B, and Officers A and B would benefit from additional divisional training.

The BOPC found Officer C's drawing/exhibiting/holstering to be in policy, no action; and Officer A's use of less lethal use of force to be in policy, no action.

As a result of the finding of administrative disapproval for Sergeant C's tactics, a complaint investigation was initiated. The complaint was "Sustained" and the sergeant received a one-day suspension.

In addition to the findings of the BOPC, the Chief directed the Commanding Officer to schedule Sergeant C for tactical training at Continuing Education Division. The Chief also noted that the Watch Commander, Sergeant C, did not assume the role of Incident Commander upon arriving on scene. It was also noted that there were no attempts to request and utilize Department resources, such as Metropolitan Division, SWAT and the Crisis Negotiation Team, during this approximately one and one-half hour incident. The Chief directed the Assistant Commanding Officer to provide formal training regarding proper Incident Command protocol and management procedures for this type of incident.

Subsequent to the adjudication of the incident, Sergeant C received one hour of "Division/Area Directed Training – Tactics" and one hour of "Use of Force and Crisis Intervention Tactics" training.

#### OIS 018-04

Officers A and B observed the suspect writing graffiti on the wall of a business. The suspect noticed the officers and bolted down the street. Officer A exited the police vehicle to go in foot pursuit of the suspect and instructed Officer B to follow in the police vehicle. Officer B drove past Officer A and the suspect, stopped the police vehicle and began to exit. The suspect ran past the police vehicle. Officer B then again drove past the suspect, stopped and exited the police vehicle and pursued the suspect on foot. Officer B caught up to the suspect and a struggle ensued. Officer B heard a loud gunshot. Officer B and the suspect fell to the ground with

Officer B on top of the suspect. The suspect had his right hand concealed under his body and his left hand outstretched in front of his body holding a handgun. Officer A caught up to Officer B and the suspect and observed a muzzle flash. Officer B confirmed that the suspect was armed with a handgun. Officer A fired a total of three rounds at the suspect. Officers C and D arrived at the scene. Officer C assisted Officers A and B with taking the suspect into custody and Officer B applied the Hobble Restraint Device (HRD) to the suspect's ankles. The Rescue Ambulance responded and transported the suspect to the hospital where he was treated for multiple gunshot wounds.

The BOPC was concerned that Officer A did not clearly communicate Officer A's observations regarding the suspect's initial location and did not have the radio on the proper frequency. The BOPC was critical of Officer B for following in the police vehicle when Officer A pursued the suspect on foot and for driving past the suspect on two occasions creating a crossfire situation. The BOPC reminded the officers that once the HRD is applied, the suspect is to immediately be placed in an upright seated position. The BOPC found Officers A and B's tactics to be seriously deficient, requiring administrative disapproval.

The BOPC found Officer A's drawing/exhibiting/holstering to be in policy, no action; Officers A, B and E's nonlethal use of force to be in policy, no action; and Officer A's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers A and B's tactic, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for formal training at Continuing Education Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received one hour of "Use of Force and Crisis Intervention Tactics" training, two hours of "Division/Area Directed Training – Tactics" and two hours of "Pedestrian Stops" training.

Subsequent to the adjudication of the incident, Officer B received one hour of "Use of Force and Crisis Intervention Tactics" training, two hours of "Division/Area Directed Training – Tactics" and two hours of "Pedestrian Stops" training.

#### OIS 021-04

Officers A and B responded to a domestic violence radio call. When the officers arrived at the location, the reporting party told the officers she wanted her live-in boyfriend to move out. The officers followed the reporting party into her apartment. The reporting party summoned the suspect out of the bedroom and into the living room. Officer A told the suspect that the officers just needed to speak to him and instructed the suspect to place his hands against the wall so Officer A could conduct a pat-down search. The reporting party began to yell at Officer A that she did not want the suspect arrested. Officer B attempted to contain the reporting party. The suspect then broke away from Officer A and retrieved a handgun. Officer A drew his service

pistol, advised Officer B that the suspect had a gun and instructed Officer B to exit the apartment. The reporting party ran from the apartment. Officer B drew his service pistol as he made his way out of the apartment. Officer B moved out of the apartment and down the front stairs. Officer A followed behind Officer B. Officer A fired two rounds at the suspect, neither of which hit the suspect. Officer B took a position of cover and fired four rounds at the suspect, none of which hit the suspect. The suspect fired a total of six rounds while inside the apartment and then two rounds from outside the front door of the apartment. The two rounds the suspect fired from outside the front door of the apartment struck Officer A as he was descending the front stairs. The injuries sustained by Officer A as a result of these last two rounds were fatal. Officer A fell to the ground at the bottom of the stairs. Officer B was unable to move Officer A. Officer B took a position to provide cover for Officer A. The suspect was not injured as a result of the officers' gunfire.

The BOPC noted that the officers did not request approval from a supervisor before proceeding to the apartment, did not discuss a tactical plan or request an additional unit to accompany them to the apartment. The officers also did not conduct a want and warrant check on the suspect or obtain a general description of the suspect prior to entering the apartment. The officers did not verify their status and location with Communication Division as they proceeded to the apartment. The officers allowed the reporting party to accompany them into the apartment. The BOPC would have preferred that the officers had held their ground, requested help, moved to a position of cover and engaged the suspect as opposed to exiting the apartment once the suspect broke free of Officer A. The officers did not communicate with each other as the incident unfolded. The BOPC also would have preferred that Officer B had ascertained if his partner was injured, provided cover and requested help once he observed Officer A go to the ground. The BOPC also noted that once Officer A was removed from the scene, there were no units immediately assigned to perimeter or cover positions to assume control of the situation, allowing the suspect to escape from the location. Due to his fatality, no findings were issued with regard to Officer A's actions. The BOPC found Officer B's tactics to be seriously deficient and require administrative disapproval.

The BOPC found Officer B's drawing/exhibiting/holstering and use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officer B's tactics, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to discuss these tactical issues with Officer B and schedule Officer B for training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer B received 32 hours of "Officer Safety/Field Tactics" training and one hour of "Use of Force and Crisis Intervention Tactics" training.

Officers A and B observed what appeared to be a “hand to hand” narcotics transaction between occupants of a vehicle and the suspect who was riding a bicycle. The officers attempted to stop the suspect, but the suspect abandoned the bicycle and bolted. As the suspect ran he grabbed at the back pocket of his pants as if to keep something from falling out. The officers exited their police vehicle and pursued the suspect on foot. The suspect climbed over a chain-link fence and ran out of sight. Officer A followed the suspect over the fence; however, the fence gave way as Officer B attempted to climb it. Officer A continued on foot after the suspect while Officer B returned to the police vehicle. Officer B drove the police vehicle into a position to attempt to intercept the suspect. A citizen indicated to Officer B that the suspect had proceeded into an apartment complex. Officer A had a passing patrol unit stop and pick up Officer A and the suspect’s bicycle. The officers then proceeded to the apartment complex. Sergeant A and Officers C, D, E and F responded to the apartment complex. The sergeant and officers followed citizen reports of the suspect’s location. As they searched for the suspect, the sergeant and officers drew their service pistols due to the possibility of an armed confrontation. The sergeant and officers proceeded to an unlocked storage cabinet in one of the carports. Officer A stepped up and opened the storage cabinet while the sergeant and other officers provided cover. Officer A observed the suspect inside the storage cabinet. Officer A instructed the suspect not to move. The suspect initially complied, but then suddenly raised his left hand holding a dark object and thrust it forward as the cabinet door began to close. Officer A fired one round at the suspect resulting in a “through and through” injury to the suspect’s right wrist and a wound to his left calf. The suspect was subsequently taken into custody without further incident. A Rescue Ambulance responded and transported the suspect to the hospital where he received medical treatment for his gunshot wounds.

The BOPC was concerned that Sergeant A became involved in the incident as opposed to maintaining a supervisory role. The BOPC found that Sergeant A would benefit from divisional training.

The BOPC was critical of Officers A and B for failing to communicate with each other and failing to coordinate their actions as the suspect fled. The BOPC was concerned that the officers did not include the suspect’s description or the fact that the suspect was possibly armed in their initial broadcast regarding the incident. The BOPC was critical of Officer A for not calling the suspect out of the storage cabinet and for deploying directly in front of the storage cabinet when Officer A believed the suspect was possibly armed. The BOPC found Officers A and B’s tactics to be seriously deficient, requiring administrative disapproval.

The BOPC found Sergeant A and Officers A, B, C, D, E and F’s drawing/exhibiting/holstering to be in policy, no action.

The BOPC was critical of Officer A’s use of lethal force. Officer A’s observations were not sufficient to lead Officer A to reasonably believe the suspect was armed. The BOPC determined that it was not reasonable for Officer A to believe the suspect presented an immediate threat of serious bodily injury. The BOPC found Officer A’s use of lethal force to be out of policy, administrative disapproval.

As a result of the finding of administrative disapproval for Officers A and B's tactics and the finding of out of policy, administrative disapproval for Officer A's use of lethal force, a complaint investigation was initiated. The complaint was "Sustained," and Officer A received a five-day suspension and Officer B received an "Official Reprimand."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for tactical training at Continuing Education Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received one hour of "Division/Area Directed Training – Tactics" and two hours of "Pedestrian Stops" training.

Subsequent to the adjudication of the incident, Officer B received two hours of "Pedestrian Stops" training.

#### OIS 037-04

Officer A was one of multiple officers involved in an operational plan to target gang activities. Officer A was attired in plainclothes, had his badge attached to his belt and was equipped with only his service pistol. The officers received information that two individuals hanging out at an apartment complex were armed. The officers converged on the apartment complex from different directions. Officer A exited the vehicle he was riding in and proceeded into the apartment complex, leaving his raid jacket and ballistic vest in the vehicle. He proceeded into the courtyard between two of the apartment buildings where he observed the suspect. The suspect initially was walking away from Officer A, but when he saw other officers approaching from the front of the complex, the suspect turned around and headed back in the direction of Officer A. Officer A observed the suspect swinging a handgun back and forth as he walked. Officer A ordered the suspect to stop and drop the gun. The suspect turned toward Officer A and started to raise the gun. Officer A fired three rounds at the suspect. The suspect threw his handgun up onto the apartment building roof as he fell to the ground. The suspect sustained a single gunshot wound to the abdomen. A Rescue Ambulance responded and transported the suspect to the hospital where he was treated for a gunshot wound.

The BOPC was critical of Officer A for not discussing tactics with his partner prior to the incident and for not communicating with his partner during the incident. The BOPC was also concerned that Officer A, being assigned as a roving observation post, responded in plainclothes and engaged possible armed suspects when the operational plan called for uniformed officers to respond and detain possible suspects. The BOPC was also critical of Officer A for responding and engaging possible armed suspects without the benefit of his ballistic vest, raid jacket, extra ammunition or handcuffs. The BOPC found Officer A's tactics to be seriously deficient, requiring administrative disapproval.

The BOPC found the drawing/exhibiting/holstering of a firearm by Officer A and all other involved officers to be in policy, no action. The BOPC also found Officer A's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officer A's tactics, a complaint investigation was initiated. The complaint was "Sustained," and Officer A received a seven-day suspension.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officer A for additional tactical training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received 32 hours of "Officer Safety/Field Tactics" training.

#### OIS 044-04

After dark, Officers A and B and California Department of Corrections Parole Agent A were on patrol in a known gang area. The officers/agent observed the suspect standing by a gate talking on a cellular telephone. The suspect noticed the officers/agent, turned and ran through the gate, closing it behind him. As he ran, the suspect grabbed an object in his waistband. The officers exited the police vehicle and pursued the suspect on foot. Officer A observed the suspect proceed into an alleyway. Officer A continued to pursue the suspect on foot while Officer B returned to the police vehicle where Parole Agent A had remained. Officer B drove the police vehicle around the corner and into the alleyway to intercept the suspect. The suspect ran into a narrow walkway of an apartment complex. Officer A followed the suspect. When Officer A entered the walkway, he found that the suspect had stopped, turned toward Officer A and was pointing a handgun at Officer A. The suspect fired multiple rounds at Officer A. Officer A was struck once in the right abdomen and once in the right hip. Officer A retreated to the corner of the building. As he retreated, he drew his service pistol but dropped his radio. Officer A then fired all 14 rounds from his service pistol at the suspect. The suspect moved out of the sight of Officer A. Officer A then moved back further using a parked car for cover, reloaded his service pistol, and fired one round in the direction of what he perceived as the suspect's arm sticking out from the corner of the building. Officer B heard the gunfire, parked and exited the police vehicle, drew his service pistol and tracked down Officer A. Officer A advised Officer B that Officer A had been shot. Officer B took possession of Officer A's service pistol. Officer A relayed to Officer B the direction in which the suspect had gone. Officer B broadcast "officer needs help, shots fired," but did not know what his location was. The last location Communications Division had for Officers A and B was at their assigned station. Officer B instructed Parole Agent A to cover Officer A while Officer B ran out to the front of the apartment building to obtain an accurate address/location. Officer B broadcast the location and then broadcast a request for a Rescue Ambulance for Officer A. Multiple additional units and a Rescue Ambulance responded to the scene. Officer A was transported to the hospital where he received medical treatment for his gunshot wounds. A perimeter was set up and the suspect was taken into custody without further incident. When the suspect was taken into custody he did not appear to have any injuries consistent with a gunshot wound.

The BOPC noted that the officers failed to notify Communications Division of their location or broadcast that they were in foot pursuit; failed to communicate with each other as the incident unfolded; separated during the foot pursuit; and that Officer B did not make a broadcast when he heard shots fired and was unaware of his location when he requested help. The BOPC also

would have preferred that Officer A had immediately reloaded when he realized that he had fired all his rounds. The BOPC found Officers A and B's tactics to be seriously deficient and require administrative disapproval.

The BOPC additionally found that the Newton Area Gang Enforcement Detail Lieutenant (Lieutenant A) and Sergeants (Sergeants A and B) who responded to the scene would benefit from additional tactical training at Training Division to ensure that they are updated on the Department's tactical guidelines.

The BOPC found Officers A and B's drawing/exhibiting/holstering to be in policy, no action; and Officer A's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers A and B's tactics, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for tactical training at Training Division as a result of this incident.

Subsequent to the incident and prior to its adjudication, both Officers A and B received 32 hours of "Officer Safety/Field Tactics" training. Subsequent to the adjudication of the incident, Officer A received 40 hours of "Officer Safety/Field Tactics Instructor" training and two hours of "Division/Area Directed Training – Tactics" training.

Subsequent to the adjudication of the incident, Lieutenant A received one hour of "Use of Force and Crisis Intervention Tactics" training; Sergeant A received one hour of "Use of Force and Crisis Intervention Tactics" training and two hours of "Pedestrian Stops" training; and Sergeant B received one hour of "Use of Force and Crisis Intervention Tactics" training.

#### OIS 056-04

In the middle of the night, Officers A and B observed the suspect walking down the sidewalk peering into vehicles in an area that had recently been plagued with Burglaries From Motor Vehicles (BFMV). Officer A opened the police vehicle door and then slammed it closed in an attempt to get the suspect's attention. The suspect turned and began to walk in the direction of the officers. Officer B communicated with the suspect through his open passenger window when the suspect reached the sidewalk directly adjacent to the police vehicle. When Officer B inquired as to where the suspect lived, the suspect bolted away from the officers and jumped over a short wrought iron fence in the front of a residence. Officer B exited the police vehicle and drew his service pistol. As the suspect fell onto the ground on the other side of the fence, Officer B heard a sound similar to that of something metal hitting the ground. The suspect picked himself up off of the ground and produced what appeared to Officer B to be a handgun. The suspect began to raise the object that appeared to be a handgun in the officers' direction, and Officer B fired three rounds at the suspect. The suspect then turned and ran away from the officers. As he ran, the suspect turned back toward the officers holding what appeared to Officer B to be a handgun at chest level with his right hand. Officer B then fired one more round at the

suspect. The suspect then ran out of Officer B's view. Unaware that the shots he was hearing were fired by Officer B, Officer A broadcast an "officer needs help, shots fired" radio call. Officer A then ran to the end of the block and around the corner to intercept the suspect in a back alleyway. Seeing Officer A run around the corner, Officer B got in the driver's side of the police vehicle and drove it around the corner to catch up with Officer A. Additional units responded and the suspect was subsequently taken into custody. The suspect did not sustain any gunshot wounds as a result of Officer B's gunfire.

The BOPC was critical of Officer B for engaging the suspect in conversation while Officer B was seated in the police vehicle. The BOPC was concerned with Officer A's opening and slamming his vehicle door as a ploy to get the suspect's attention, and was critical of him for following the suspect by driving in reverse and then stopping the police vehicle parallel to the suspect. The BOPC was critical of both officers for not properly notifying Communications Division of their location and activities especially when they knew they were in a high crime/gang area. The BOPC was also critical of both officers for separating after the OIS. The BOPC found Officers A and B's tactics to be seriously deficient and require administrative disapproval.

The BOPC found Officers A and B's drawing/exhibiting/holstering to be in policy, no action; and Officer B's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers A and B's tactics, a complaint investigation was initiated. The complaint was "Sustained," and both officers received an "Official Reprimand."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for tactical training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received 32 hours of "Officer Safety/Field Tactics" training. Subsequent to the adjudication of the incident, Officer A received four hours of "Pedestrian Stops/Weapons" training.

Subsequent to the incident but prior to its adjudication, Officer B received 40 hours of "Officer Safety/Field Tactics Instructor" training. Subsequent to the adjudication of the incident, Officer B received four hours of "Suspect Tactic & Perimeter Containment" training and two hours of "Pedestrian Stops" training.

#### A-D 057-04<sup>14</sup>

Officers A and B conducted a traffic stop of the suspect for California Vehicle Code violations. During the stop, officers discovered narcotics in the vehicle. The officers then transported the suspect to his residence to retrieve the suspect's identification and search the residence for possible narcotics. As the officers and the suspect walked up the driveway toward the back of the residence where the suspect rented a room, the suspect advised the officers that

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<sup>14</sup> The acronym "A-D" is used to identify incidents involving an On-Duty Animal Shooting.

there were two dogs at the residence but that they were tied up. Once in the backyard the officers observed that one dog was tied up and one was not. The dog that was not tied up charged Officer A. Officer A initially kicked the dog and sprayed it with Oleoresin Capsicum spray with no affect. Officer A then fired one round at the dog. The dog was struck in the shoulder and, subsequently, was transported by its owner to a pet clinic for medical treatment.

The BOPC was critical of the officers' decision to initiate a follow-up investigation without notifying a supervisor and requesting an additional unit. The BOPC was also critical of the manner in which the officers approached the location because they did not consider the possibility of additional suspects or the tactical disadvantages associated with a handcuffed prisoner. The BOPC was also critical of the fact that Officer A's service pistol was loaded with only 15 rounds of ammunition instead of the required 16 rounds. The BOPC found Officers A and B's tactics to be deficient, requiring administrative disapproval.

The BOPC found Officer A's drawing/exhibiting/holstering and use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers A and B's tactics, a complaint investigation was initiated. The complaint was "Sustained," and both officers received a one-day suspension.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for additional training at Training Division as a result of this incident.

Officer A's TEAMS/TEAMS II does not reflect tactical training subsequent to the incident that would address the concerns expressed by the Chief and the BOPC.

Subsequent to the adjudication of the incident, Officer B received one hour of "Division/Area Directed Training – Tactics" training.

#### ACC 061-04

Officer A was part of a team conducting surveillance in plainclothes and unmarked police vehicles. Officer A was seated in the driver's seat of his unmarked police vehicle with no one else in the vehicle. Officer A had his backup pistol unholstered under his thigh. He retrieved the pistol from under his thigh with one hand and reached across his body to retrieve his tote with the other hand. As he did so, he squeezed the trigger resulting in the backup pistol discharging a single round. The round struck Officer A in the thigh. Officer A broadcast the incident. The other officers and sergeant on the surveillance team responded to Officer A's location. A Rescue Ambulance responded and transported Officer A to the hospital for medical treatment.

The BOPC was critical that Officer A elected to deploy in his vehicle with his unholstered backup pistol under his thigh. The BOPC also noted that Officer A unloaded the pistol after the discharge. The BOPC found Officer A's tactics to be deficient, requiring administrative disapproval.

The BOPC was critical of Officer A for not having his backup pistol holstered during the surveillance. The BOPC found Officer A's drawing/exhibiting/holstering to be out of policy, administrative disapproval.

The BOPC was critical of Officer A for not following basic firearm safety by placing his finger on the trigger of his backup pistol resulting in an accidental discharge. The BOPC found Officer A's use of force to be accidental, administrative disapproval.<sup>15</sup>

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officer A for additional tactical training at Training Division and to provide Officer A and the sergeant and all other officers assigned to the same team with divisional training regarding procedures for deploying and securing weapons while working plainclothes assignments as a result of this incident.

Due to an administrative oversight, no complaint investigation was initiated as a result of the findings of administrative disapproval for Officer A's actions during the incident. In addition, Officer A's TEAMS/TEAMS II does not reflect any additional tactics or firearms training subsequent to the incident beyond the required quarterly firearms qualifying.

#### HS 063-04

Officers A and B observed two known gang members amongst a group of individuals seated on the front porch of a residence. The officers stopped their police vehicle and approached the group on foot. The suspect walked toward the front door while grabbing at his waistband. The suspect produced a handgun, went into the residence and closed the door behind him. Officer B drew his service pistol and followed the suspect into the residence. Officer A followed behind Officer B. Officer B followed the suspect into a laundry room where the suspect attempted to throw his handgun into a clothes dryer. The handgun bounced off the dryer and landed in a cat litter box in the corner of the room. The suspect fell on top of the cat litter box covering the handgun. Officer B holstered his service pistol and became involved in a physical struggle with the suspect. In the course of the struggle, Officer B drew his service pistol only to have the suspect grab onto it. Officer B broke the suspect's grasp on his service pistol and then struck the suspect in the face with the pistol. During the struggle the suspect continually attempted to reach underneath himself to retrieve the handgun he had thrown. Officer A attempted to assist Officer B. The suspect attempted to punch Officer A. Officer A delivered three to five distraction strikes to the suspect's face. Additional officers arrived, and the officers were then able to retrieve the handgun and take the suspect into custody. After the suspect received medical treatment at the scene for minor facial lacerations, Officers C and D transported the suspect to the area station. While being transported, the suspect was able to maneuver his handcuffed hands from behind his back to in front of him. Upon arrival at the station, the officers re-handcuffed the suspect with his hands behind his back. The suspect then broke away from the officers and ran into a nearby business. The officers went in foot pursuit of the suspect and took him into custody inside the business without further incident.

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<sup>15</sup> The Chief had recommended that Officer A's use of lethal force be found "negligent," administrative disapproval.

The BOPC noted that Officers A and B did not advise Communications Division of their status and location; did not clearly communicate their intention to conduct a consensual encounter/narcotics detention of multiple suspects; and pursued an armed suspect into a residence the suspect was most likely familiar with, while losing sight of additional suspects. Officer B did not advise Officer A of the location of the suspect's handgun. Also, Officer B drew his service pistol while struggling with the suspect as opposed to stepping away from the suspect prior to drawing, and did not advise Officer A that the suspect was attempting to grab his service pistol. The BOPC noted that Officer A did not include the fact that the suspect was armed or that the officers were going inside the residence when he broadcast a request for help. The BOPC also noted that Officers C and D failed to properly monitor the suspect during transportation and failed to maintain control of the suspect while adjusting the handcuffs. The BOPC found Officers B, C and D's tactics to be seriously deficient, requiring administrative disapproval. The BOPC found that Officer A would benefit from additional tactical training at Training Division.

The BOPC found Officers A and B's nonlethal use of force to be in policy, no action; and Officer B's drawing/exhibiting/holstering and use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers B, C and D's tactics, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers B, C and D for additional tactical training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received four hours of "Suspect Tactic & Perimeter Containment" training; and Officer B received four hours of "Suspect Tactic & Perimeter Containment" training and two hours of "Division/Area Directed Training – Use of Force" training.

Subsequent to the adjudication of the incident, Officer C received four hours of "Suspect Tactic & Perimeter Containment" training; and Officer D received 16 hours of "Arrest & Control Techniques Update" training and 32 hours of "Officer Safety/Filed Tactics" training.

#### A-D 064-04

Officers A and B arrested the suspect on narcotics charges and determined that the suspect was on parole. Detective A determined that a follow-up investigation would be conducted at the addresses thought to be those of the suspect. Detective A and Officers A, B, C, D, E and F responded to one of the suspect's addresses. Officers A and E and Detective A began to proceed around the residence toward a trailer in the backyard. As they did so, a dog appeared and charged at Officer A. Officer A fired three rounds at the dog, injuring it.

The BOPC was concerned that Detective A did not ensure that all officers were aware of the objective of the follow-up investigation, did not advise the Watch Commander of his follow-up investigation, and did not include uniformed officers in his plan. The BOPC was also

concerned that the officers did not properly notify Communications Division of their location. The BOPC found Detective A's tactics to be seriously deficient and require administrative disapproval. The BOPC determined that Officers A, B, C, D, E and F would benefit from additional tactical training at Training Division.

The BOPC found Officers A, B, C, D, E and F's drawing/exhibiting/holstering to be in policy, no action; and Officer A's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Detective A's tactics, a complaint investigation was initiated. The complaint was "Sustained," and Detective A received an "Admonishment."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Detective A and Officers A, B, C, D, E and F for training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received one hour of "Division/Area Directed Training – Tactics."

Subsequent to the incident but prior to its adjudication, Officer C received one hour of "Division/Area Directed Training – Tactics."

It is not clear from Detective A and Officers B, D, E and F's TEAMS/TEAMS II whether or not they received relevant formal training subsequent to the incident.

#### HS 074-04

While on their way to a radio call of a man with a gun, Detectives A and B observed three individuals, including the suspect. The detectives stopped the three individuals and conducted a pat-down search for weapons on each of the individuals to ascertain if they were related to the radio call. All three individuals were released, but as the suspect walked away he turned and became verbally abusive with the detectives. The detectives got back in their car and began to continue to the location of the radio call. While the detectives were stopped at a traffic light, the suspect again became verbally abusive with the detectives and challenged them to a fight. The detectives decided to arrest the suspect for challenging to fight. The detectives pulled their vehicle over, exited the vehicle, ordered the suspect to stop and advised him that he was under arrest for challenging to fight. The suspect began to walk away. Detective A attempted to take the suspect into custody, but the suspect resisted. Detective A had his flashlight in his hand during the struggle. After the detectives were able to take the suspect into custody, they noticed that the suspect had blood on his mouth. The suspect advised the detectives that the injury was from Detective A's flashlight. The suspect declined the detectives' offer to request medical treatment for the suspect.

The BOPC noted the following concerns with regard to Detectives A and B's tactics: Detective B broadcast that they were on scene when they were actually three blocks away; the detectives did not advise Communications Division when they confronted the individuals on two

separate occasions; given that the detectives were in plainclothes and not wearing body armor, the BOPC would have preferred that they had monitored the individuals and requested uniformed officers to respond; when the detectives detained the individuals, they had the individuals put their hands on the wall as a search technique, as opposed to directing them to place their hands behind their heads or behind their lower backs; Detective A held his flashlight in his strong hand when he confronted the suspect; Detective A used his telephone to notify his supervisor of the incident, as opposed to broadcasting a request for a field supervisor over the radio; and the detectives were driving away from the area after the individuals were released when they elected to return to effect an arrest, as opposed to simply ignoring the suspect's taunting remarks. The BOPC found Detectives A and B's tactics to be deficient and require administrative disapproval.

The BOPC found Detectives A and B's drawing/exhibiting/holstering and use of nonlethal force to be in policy, no action.

The BOPC found Detective A's use of lethal force to be in policy, but determined that Detective A would benefit from training at Training Division on alternative methods of approaching a suspect and the appropriate use of equipment, including the use of a flashlight.

As a result of the finding of administrative disapproval for Detectives A and B's tactics, a complaint investigation was initiated. The complaint was "Sustained," and both detectives received an "Official Reprimand."

The Chief Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Detectives A and B for additional training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, both detectives received one hour of "Use of Force and Crisis Intervention Tactics" training.

#### HS 079-04

While assigned to a single-officer unit, Officer A responded to a "group fight" call. He responded to the location to find that it was actually a domestic violence incident and the suspect had locked himself in the bathroom. The suspect eventually came out of the bathroom but failed to comply with Officer A's verbal commands. Officer A drew his Oleoresin Capsicum spray and broadcast a request for a supervisor. The suspect still did not comply with Officer A's commands. Officer A sprayed the suspect with his Oleoresin Capsicum spray. The suspect attempted to rush past Officer A. Officer A grabbed the suspect and a physical struggle ensued. During the struggle, the suspect hit Officer A in the face with a closed fist. Officer A drew his flashlight and attempted to strike the suspect in the upper torso. The suspect moved, and Officer A inadvertently struck the suspect in the head with the flashlight. Officers B and C arrived at the location and assisted with taking the suspect into custody. Officer B stood the suspect up and applied handcuffs to the suspect's wrists. A Rescue Ambulance responded and transported the suspect to the hospital where he received 12 staples for a laceration to his head.

The BOPC was concerned that Officer A entered the suspect's apartment alone after being informed by the victim that the incident was one of domestic violence and that the suspect was violent. The BOPC was also concerned that Officer A did not properly control the suspect. The BOPC was concerned that Officer A prematurely broadcast that additional assistance was not needed, and then requested a supervisor when the suspect became combative. The BOPC found Officer A's tactics to be seriously deficient and require administrative disapproval.

The BOPC would have preferred that Officer B had not allowed the suspect to stand prior to handcuffing him. The BOPC determined that Officer B would benefit from additional divisional training.<sup>16</sup>

The BOPC found Officer A's nonlethal use of force to be in policy, no action.

The BOPC determined that Officer A's flashlight strike to the suspect's head was inadvertent. However, the BOPC would have preferred that Officer A had deployed his ASP baton instead of his flashlight as an impact device. The BOPC found Officer A's use of force to be in policy, but determined that Officer A would benefit from additional training at Training Division.

As a result of the finding of administrative disapproval for Officer A's tactics, a complaint investigation was initiated. The complaint resulted in a finding of "Sustained," and Officer A received an "Official Reprimand."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officer A for additional tactical training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received one hour of "Use of Force and Crisis Intervention Tactics" training.

#### OIS 087-04

Communications Division broadcast a radio call of a robbery in progress at a business location. Officers A and B responded to the scene and took a position to the west of the building. Officers C and D responded to the scene and took a position northeast of the building. Officers A and D deployed shotguns while Officers B and C drew their service pistols. Officers C and D proceeded on foot to the entrance of the business on the north side of the building. Officer D observed Suspect 1 flee on foot away from a van parked in front of the entrance to the business. Suspect 1 ran in the direction of Officers A and B. Officer B ordered Suspect 1 to stop. Suspect 1 complied with the officer's orders. As Officers C and D continued their approach of the front entrance, the officers observed Suspect 2 come out of the entrance and proceed toward the van. Officer D verbally identified the officers and ordered Suspect 2 to stop. Suspect 2 turned toward Officer C and pointed a handgun at him. Officer C fired three rounds from his service pistol at Suspect 2. Suspect 2 then fell to the ground and assumed a prone

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<sup>16</sup> The Chief had recommended that Officer C would benefit from additional tactical training. The BOPC found that Officer C was not involved in the handcuffing of the suspect, and, thus, required no further action.

position. Officer D approached Suspect 2 and covered him while watching the front entrance of the business. Officer A responded to Officer D's location. Officer C took a position of cover behind the suspects' van. Officer D handcuffed Suspect 2 while Officer A provided cover. Officers E, F and G arrived at the scene. Officers F and G exhibited shotguns while Officer E drew his service pistol. Officers E, F and G assisted Officer B with taking Suspect 1 into custody. Officers E and F guarded Suspect 1 while Officer B and G responded to Suspect 2's location in front of the business. Sergeant A arrived on scene, met with Officers A and D, and developed a tactical plan. Officers entered the business and escorted two employees out of the building. Sergeant A and Officer C noticed that Suspect 2's gun was in his back pocket. Officer C recovered Suspect 2's gun and provided it to Sergeant A who secured it. The Metropolitan Division's K-9 Unit and the Special Weapons and Tactics (SWAT) Unit responded to the scene. A search of the location resulted in the location and arrest of Suspect 3. A Rescue Ambulance responded and transported Suspect 2 to the hospital for treatment of a gunshot wound to his arm.

The BOPC noted that Officers A, B, C and D did not communicate their location to each other or develop a tactical plan upon arriving at the location. Officers C and D parked their police vehicle in immediate line of sight of the front entrance of the business and approached the van without a unified tactical plan. Officer D did not advise his partner or Officers A and B that he observed Suspect 1 flee on foot. After the OIS, Officer D walked past the open doors of the business without cover and past the van without clearing it for additional suspects first. Officers C and D failed to immediately search and/or handcuff Suspect 2 after the OIS. Officer D placed his foot on Suspect 2 to control him while watching the front entrance. The BOPC was also critical of Officers C and D for not advising responding officers that Suspect 2's weapon was unaccounted for and Suspect 2 had not yet been searched. Officer C declined Officer A's request to handcuff Suspect 2 because Officer C believed it was more critical to watch the front entrance. The BOPC was concerned that Officer D entered the building prior to the arrival of SWAT to use the restroom knowing that there was a possibility that a third suspect was still inside. The BOPC was also concerned that Sergeant A did not take sufficient control of the scene, did not obtain Public Safety Statements in a timely manner and participated in the search efforts. The BOPC found Officers C and D's tactics to be seriously deficient, requiring administrative disapproval. The BOPC found that Officers E, F and G's tactics were appropriate and required no further action.

The BOPC found Officers A, B, C, D, E, F and G's drawing/exhibiting/holstering to be in policy, no action; and Officer C's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers C and D's tactics, a complaint investigation was initiated. The complaint was "Sustained," and both officers received an "Official Reprimand."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Sergeant A and Officers A, B, C and D for tactical training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received one hour of "Use of Force and Crisis Intervention Tactics" training. Subsequent to the adjudication of the incident, Officer A received 16 hours of "Arrest & Control Techniques Update" training.

Subsequent to the incident but prior to its adjudication, Officer C received one hour of “Use of Force and Crisis Intervention Tactics” training. Subsequent to the adjudication of the incident, Officer C received 16 hours of “Arrest & Control Techniques Update” training.

Subsequent to the incident but prior to its adjudication, Officer D received 16 hours of “Arrest & Control Techniques Update” training, one hour of “Division/Area Directed Training – Tactics” training and one hour of “Use of Force and Crisis Intervention Tactics” training.

Subsequent to the adjudication of the incident, Sergeant A received one hour of “Use of Force and Crisis Intervention Tactics” training, and Officer B received 32 hours of “Officer Safety/Field Tactics” training.

#### HS 092-04

Officers A and B responded in separate police vehicles to a location to follow-up on information they obtained regarding narcotics transactions being conducted at the location. The officers encountered the suspect and another individual. The suspect hesitantly admitted to being on parole and then ran from the officers. Officer A pursued the suspect on foot following the suspect through a business, across the street and into the parking lot of another business. Officer B returned to his vehicle and tracked the suspect and Officer A. Officer A approached the suspect and drew his service pistol with his right hand while holding his radio in his left hand. Officer A ordered the suspect to get down on the ground, but the suspect failed to comply and, again, ran from Officer A. Officer A holstered his service pistol and followed the suspect. Officer B attempted to “cut off” the suspect’s path by blocking it with his police vehicle. The suspect stopped, turned around and ran at Officer A. As the suspect attempted to run past Officer A, Officer A grabbed the suspect and a physical struggle ensued. During the struggle, the suspect punched Officer A in the collarbone. Officer A attempted to strike the suspect in the upper torso with his radio, but the suspect moved in such a way that the radio struck the suspect in the head. Officer B exited his vehicle and assisted Officer A with taking the suspect into custody. After getting the suspect into custody, the officers drove the suspect back to the location where they had initially encountered him. Detective A responded and initially treated the incident as a Non-Categorical Use of Force. Force Investigation Division was contacted and informed Detective A that the incident met the criteria for a Categorical Use of Force. A Rescue Ambulance responded and transported the suspect to the hospital where he was treated for an abrasion to the head and pain to his torso.

The BOPC noted that Officers A and B did not develop a plan for this type of encounter, and Officer B did not advise Communications Division of his status at the location. Officer A initially approached the suspect and another individual by himself. The BOPC was critical of the officers because when the suspect fled on foot, Officer A ran after the suspect on foot while Officer B returned to his vehicle. The officers also did not broadcast that they were in foot pursuit. The BOPC also noted that Officer A drew his service pistol with one hand twice during the foot pursuit while holding his radio in the other hand, and Officer B used his police vehicle to block the suspect’s path causing a crossfire situation. The BOPC was critical of Detective A for not having Communications Division locate the officers once Detective A could not contact them himself. Detective A failed to assume a leadership role and failed to coordinate a response

to the incident. The BOPC found Detective A and Officers A and B's tactics to be deficient, requiring administrative disapproval.

The BOPC found Officer A's drawing/exhibiting/holstering to be in policy, but determined that Officer A would benefit from additional training at Training Division regarding Officer A's failure to utilize cover or maintain a sufficient distance when pursuing the suspect and limiting his use of force options by drawing his service pistol.

The BOPC found Officers A and B's use of nonlethal force to be in policy, no action; and Officer A's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Detective A and Officers A and B's tactics, a complaint investigation was initiated. The complaint was "Sustained," and the detective and both of the officers received an "Official Reprimand."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Detective A and Officers A and B for tactical training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received four hours of "Firearms Tactical Handgun" training and one hour of "Use of Force and Crisis Intervention Tactics" training. Subsequent to the adjudication of the incident, Officer A received one hour of "Division/Area Directed Training – Other."

Subsequent to the adjudication of the incident, Officer B received one hour of "Division/Area Directed Training – Other."

Detective A's TEAMS/TEAMS II does not reflect training that addresses the concerns identified in this incident.

#### OIS 104-04

Department personnel were conducting a sting operation when they were shot at by unknown suspects. Officer A returned gunfire. It is unknown if Officer A's gunfire struck any of the suspects.

The BOPC was critical of the operations plan for the sting operation, the equipment used in the operation, the time of day during which the operation was conducted and the decision to go forward with the operation amidst various problems with communications. The BOPC was also critical of the actions of the involved personnel subsequent to the OIS. The BOPC found the tactics of the commanding officer, a lieutenant, a detective and four of the sergeants involved in

the operation to require administrative disapproval.<sup>17</sup> The BOPC found that all but one of the other associated personnel would benefit from training at Training Division.<sup>18</sup>

The BOPC found the drawing/exhibiting/holstering of Officer A and two sergeants to be in policy, no action;<sup>19</sup> and Officer A's use of lethal force to be in policy, no action.

As a result of the findings of administrative disapproval for the tactics of the involved personnel, a complaint investigation was initiated. The complaint was "Sustained," and each received an "Admonishment."

Subsequent to the adjudication of the incident, the involved personnel received two hours of directed tactical training.

#### LERI 107-04

Detectives A and B were working a gang impact detail in plainclothes and an unmarked police vehicle. They observed the suspect leave a suspected narcotic location and enter a vehicle. The detectives attempted to conduct a consensual encounter. The detectives identified themselves as police officers, and the suspect agreed to a pat-down search. While Detective A was conducting the search, the suspect turned and attempted to strike Detective A with his elbow. Detective A ducked but was struck in the arm by the suspect. Detective B attempted to contain the suspect by spraying the suspect with Oleoresin Capsicum spray. The suspect escaped Detective B's grasp by slipping out of his shirt and jacket. The suspect then ran from the detectives yelling that the detectives were not police. The suspect used water from the hose in front of a neighboring residence to wash the Oleoresin Capsicum spray from his face. He began to return to his vehicle and, again, the detectives attempted to gain control of him. He ran from the detectives onto the front porch of another residence. Detective B pursued the suspect onto the porch. The suspect continued to ignore the detectives' commands, and Detective B again sprayed the suspect with Oleoresin Capsicum spray. The suspect then ran from the porch and headed toward Detective A. Detective A attempted to gain control of the suspect. During the struggle, Detective A lost control of his Oleoresin Capsicum canister. Detective B joined the struggle with the suspect. The suspect gained control of Detective A's Oleoresin Capsicum canister and sprayed Detective B with it. Detective B deployed a collapsible baton, and, with one eye blinded by the Oleoresin Capsicum spray, struck the suspect with the baton. The suspect moved in an attempt to free himself from the detectives, and Detective B's baton struck the suspect on the forehead. The suspect freed himself from the detectives and ran onto the porch of another residence. Uniformed officers responded, and the suspect was taken into custody without further incident. A Rescue Ambulance responded, and the suspect was transported to the hospital where he received eleven sutures to close the laceration to his forehead.

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<sup>17</sup> The Chief did not recommend that the detective's tactics required administrative disapproval.

<sup>18</sup> The Chief had recommended training for the captain associated with the unit. The BOPC found that there were insufficient grounds to recommend training for this captain.

<sup>19</sup> The Chief had recommended that one of the sergeants' drawing/exhibiting/holstering be found in policy, but that the sergeant would benefit from additional divisional training.

The BOPC noted the following deficiency in the tactics employed by Detectives A and B during the incident: the detectives did not advise Communications Division of their status/location when they arrived at their initial location; Detective A had the suspect place his hands at his sides prior to searching the suspect's pockets; Detective B placed her Oleoresin Capsicum canister in her jacket pocket as opposed to properly securing it in a holster/holder; the detectives did not broadcast an assistance request that included the suspect's location and description after the initial use of force; the detectives allowed the suspect to use the water hose to rinse the Oleoresin Capsicum spray from his face resulting in the suspect regaining his ability and will to fight; Detective B approached the suspect alone during part of the incident; Detective B was not carrying her collapsible baton in a scabbard; Detective B engaged the suspect prior to securing her collapsible baton, resulting in the suspect attempting to take it from her; Detective A attempted to control the suspect while holding his Oleoresin Capsicum canister in his right hand, resulting in Detective A losing control of his Oleoresin Capsicum canister; and detectives did not adequately communicate with each other during the incident. The BOPC found Detectives A and B's tactics to be seriously deficient, requiring administrative disapproval.

The BOPC found that the detectives' nonlethal uses of force were reasonable to overcome the suspect's resistance and take him into custody. However, the BOPC noted that Detective B deployed her Oleoresin Capsicum spray from a distance less than the recommended minimum distance of three feet. The BOPC also found that the detectives appeared to be inadequately prepared to use the force options available to them. The BOPC found Detectives A and B's nonlethal uses of force to be in policy, but that the detectives would benefit from the Law Enforcement Tactical Application Course and Arrest & Control School at Training Division.

The BOPC found Detective B's use of the collapsible baton to be reasonable to overcome the aggressive/combatative resistance of the suspect, and that Detective B's baton strike to the suspect's head was inadvertent. The BOPC found Detective B's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Detectives A and B's tactics, a complaint investigation was initiated. The complaint was "Sustained," and both detectives received an "Official Reprimand."

Completion of the Law Enforcement Tactical Application Course or Arrest & Control School is not reflected on either of the detectives' TEAMS/TEAMS II subsequent to the date of the incident.

#### OIS 109-04

While off-duty, Officer A attended a party being hosted by the owner of the residence at which Officer A resided. During the party, Officer A became involved in a verbal altercation with an individual who had harassed Officer A's girlfriend. The suspect challenged Officer A to a physical fight. Officer A identified himself as a police officer, but this did not appear to dissuade the suspect's desire to fight Officer A. The owner of the residence along with others intervened and attempted to have the suspect and his friends leave the premises. Officer A returned to his room and retrieved his Oleoresin Capsicum canister. The owner of the residence

was meeting with resistance from the suspect and his friends. Officer A sprayed the suspect and one of his friends with his Oleoresin Capsicum spray. The suspect and his friends then left the residence without further incident. The suspect later returned to the residence with his friends and began to ask partygoers where Officer A was. One partygoer attempted to stop the suspect, and the suspect fired one round from a handgun into the ground. Officer A was informed that the suspect had returned, and Officer A heard the suspect's gunshot. Officer A returned to his room, retrieved his service pistol and began to search for the suspect. Officer A looked out into the backyard of the residence and observed the suspect who appeared to be pointing his handgun at partygoers inside the residence. Officer A fired a total of five rounds at the suspect. The suspect fell to the ground and, with the assistance of one of the partygoers, Officer A took the suspect into custody. The suspect and one of his friends were subsequently transported to the hospital. The suspect's friend was treated for a "through-and-through" gunshot wound to the mouth. The suspect succumbed to his gunshot wounds.

The BOPC noted that once Officer A identified himself as a police officer, he committed himself to taking police action at a time when he was outside his jurisdiction, had no access to other police resources, had no backup and had limited equipment. Officer A failed to notify the local police department of the use of Oleoresin Capsicum spray when officers from that department responded to the residence based on complaints that the party was too loud. Officer A's initial retrieval of only his Oleoresin Capsicum canister limited his force options. Officer A attempted to handle the situation himself as opposed to summoning on-duty officers from the local police department. The BOPC noted that had on-duty local officers been summoned, it is possible that the incident could have been avoided. The BOPC further noted that Officer A retrieved his service pistol without additional tools or a holster. The BOPC found Officer A's tactics to be seriously deficient, requiring administrative disapproval.

The BOPC would have preferred that when Officer A retrieved his service pistol, Officer A had been equipped with an approved off-duty holster or his duty belt in the event he needed to secure his weapon or take the suspect into custody. The BOPC found Officer A's drawing/exhibiting/holstering to be in policy, but that Officer A would benefit from divisional training.

The BOPC reminded Officer A that Oleoresin Capsicum spray is a defensive weapon, is not one hundred percent effective and should not be used in a punitive manner. The BOPC also noted that Officer A should have considered other options prior to deploying the Oleoresin Capsicum spray. The BOPC found Officer A's use of nonlethal force to be in policy, but that Officer A would benefit from divisional training.

The BOPC found Officer A's use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officer A's tactics, a complaint investigation was initiated.<sup>20</sup> The complaint was "Sustained," and Officer A received a two-day suspension.

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<sup>20</sup> In addition to the allegation of Unauthorized Tactics, an allegation of Neglect of Duty was included in this complaint based on Officer A's failure to properly notify both the Department and the local police department of the use of the Oleoresin Capsicum spray.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officer A for training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received four hours of "Firearms Tactical Handgun" training. Subsequent to the adjudication of the incident, Officer A received one hour of "Use of Force and Crisis Intervention Tactics" training.

#### OIS 118-04

While attired in plainclothes and driving an unmarked police vehicle, Officers A and B witnessed a female with whom they had had prior contacts for prostitution enter a Sport Utility Vehicle (SUV) after the female engaged in a short conversation with the driver of the SUV. The officers approached the SUV on foot and observed the occupants engaged in a lewd act. The officers verbally identified themselves as police officers and ordered the occupants out of the SUV to take them into custody. To facilitate taking the driver into custody, Officer A began to walk from the passenger side of the SUV around the front of the vehicle to the driver's side. As Officer A made his way in front of the SUV, the driver started the engine and began to move the SUV. At one point, the SUV lurched forward in Officer A's direction. Officer B fired one round from her service pistol at the SUV. The SUV then drove off. The female was later apprehended and had no apparent injuries from the incident. The driver was not identified.

The BOPC noted that the officers did not advise Communications Division or other area officers of their location. Officer A did not equip himself with a radio or handcuffs, and Officer B had no flashlight and displayed her badge on her hip where it was not readily visible. Neither officer was attired with a raid jacket, and neither officer obtained the license plate number of the SUV prior to making contact with its occupants. Officer A was unable to draw his service pistol because he had it in an unfamiliar location and his hand got caught in his clothing. The officers approached on the same side of the SUV and gave conflicting verbal commands. Officer A placed himself in a tactically disadvantaged position by walking around the front of the SUV. The officers failed to put out an immediate crime broadcast after the OIS, and when Officer A did put the broadcast out, he did not include the fact that an OIS had occurred. The BOPC was also concerned that Sergeant A, the officers' supervisor, was at the station during the incident as opposed to in the field, and that the sergeant used his cellular telephone to notify the Watch Commander of the incident instead of using the radio. The BOPC found Officer A and B's tactics to be seriously deficient, requiring administrative disapproval.

The BOPC found Officer B's drawing/exhibiting/holstering to be in policy, no action.

The BOPC noted that the driver of the SUV appeared to be maneuvering the SUV to flee as opposed to strike Officer A. The driver had moved the SUV backward and then forward multiple times prior to the OIS without coming into contact with Officer A. Officer B was focused on the driver of the SUV, and, thus, was unaware that Officer A had moved out of the line of travel of the SUV. Thus, it was not reasonable for Officer B to believe that the driver of the SUV presented an immediate threat or that discharging her weapon was a last resort. The BOPC determined that the threat from the driver of the SUV did not rise to the level of lethal

force. The BOPC found Officer B's use of lethal force to be out of policy, administrative disapproval.

As a result of the finding of administrative disapproval for Officers A and B's tactics and the finding of out of policy, administrative disapproval for Officer B's use of lethal force, a complaint investigation was initiated. The complaint was "Sustained," and both officers received a 10-day suspension.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for training at Training Division, and to discuss the identified issues with Sergeant A and provide the appropriate training as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received three hours of "Division/Area Directed Training – Tactics," and Officer B received a total of four hours of "Division/Area Directed Training – Tactics" and one hour of "Use of Force and Crisis Intervention Tactics" training.

#### OIS 119-04

While carpooling to work in Officer A's personal vehicle, Officers A and B observed the suspect pull in front of Officer A's vehicle. Officer A quickly changed lanes and then pulled alongside the suspect's vehicle. The officers observed the suspect pull what appeared to be a handgun. The officers then observed what they believed to be a muzzle flash and heard what the officers believed was a gunshot impacting Officer A's vehicle. Officer A slowed his vehicle to take a position that was more tactically advantageous. Officer A then drew his service pistol and fired four rounds through the front windshield of his vehicle at the suspect's vehicle. The suspect's vehicle sped away. The officers pursued the suspect's vehicle while notifying their Watch Commander of the incident. The officers eventually lost sight of the suspect and proceeded to the station. The suspect and the passenger in his vehicle were subsequently identified and questioned. Neither the suspect nor his passenger was injured by Officer A's gunfire.

The BOPC noted that after braking to avoid colliding with the suspect's vehicle, Officer A pulled alongside the suspect's vehicle and both officers looked into the vehicle. While under the belief that the suspect was armed and had shot at the officers, Officer A simply slowed his vehicle as opposed to stopping and calling for backup and reporting the incident. After the OIS, Officer A used his cellular telephone to call the station, instead of having Officer B call 9-1-1 to facilitate a more immediate dispatch of help for the officers. The BOPC was also concerned that Officer A violated rules of the road in his efforts to pursue the suspect's vehicle. The BOPC found Officers A and B's tactics to be seriously deficient and require administrative disapproval.

The BOPC noted that at the time of the incident neither officer had his service pistol secured in a holster. The BOPC found Officers A and B's drawing/exhibiting/holstering to be in policy, but that the officers would benefit from divisional training.

The BOPC was critical of Officer A for shooting at a moving vehicle from a moving vehicle. At the time he fired, Officer A had alternatives available to him that were more reasonable and prudent at the time he fired. The BOPC determined that it was not reasonable for Officer A to believe the suspect presented an immediate threat of serious bodily injury or death, and, at the time he fired his rounds, Officer A had not exhausted all reasonable alternatives. The BOPC found Officer A's use of lethal force to be out of policy, administrative disapproval.

As a result of the finding of administrative disapproval for Officers A and B's tactics and the finding of out of policy, administrative disapproval for Officer A's use of lethal force, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for additional tactical training at Training Division, and to schedule Officer A for additional use of lethal force training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received a total of 34 hours of "Division/Area Directed Training – Tactics" and one hour of "Use of Force and Crisis Intervention Tactics" training. Subsequent to the adjudication of the incident, Officer A received four hours of "Firearms Tactical Handgun" training.

Subsequent to the adjudication of the incident, Officer B received 32 hours of "Officer Safety/Field Tactics" training and two hours of "Division/Area Directed Training – Tactics."

#### OIS 002-05

Officers A and B were conducting crime suppression activities in full uniform in an unmarked vehicle without emergency equipment. They observed a vehicle parked in an alleyway with its headlights on and engine running, and the suspect appeared to be slumped over the steering wheel. Officer A retrieved his flashlight from the trunk of his vehicle while Officer B checked the status of the vehicle in the alleyway. The vehicle report reflected the vehicle was stolen. The suspect appeared startled by the officers, backed the stolen vehicle out of the alleyway and began to drive away from the officers. The officers pursued the stolen vehicle. When the suspect reached the end of the block, he stopped the stolen vehicle, got out and brandished a handgun. The officers ordered the suspect to drop the handgun. The suspect waived the handgun around and pointed it in the officers' direction. Officer A fired two rounds at the suspect. Apparently unaffected by Officer A's gunfire, the suspect got back into the stolen vehicle and drove away. The officers followed the suspect. The suspect collided with an unattended parked vehicle and abandoned the stolen vehicle. The officers stopped short of the site of the collision and took cover behind their vehicle doors. Officers C and D responded and were briefed by Officers A and B. Officers C and D cleared the stolen vehicle and recovered a handgun from the floor of the stolen vehicle. The suspect was subsequently located and taken into custody. The suspect was not injured by Officer A's gunfire.

The BOPC noted that Officers A and B did not discuss tactics prior to going out into the field or during their tour of duty. The officers did not advise Communications Division of their

location when they observed the stolen vehicle in the alleyway, and Officer A broadcast an incorrect location when requesting an additional unit. The BOPC would have preferred that the officers had requested backup and an airship, and advised responding units that they were in an unmarked vehicle once they were advised that the vehicle in the alleyway was stolen. The BOPC also would have preferred that Officer B, the passenger officer, had taken over broadcasting once the officers began to follow the suspect. Officers A and B did not request a “black-and-white” unit to investigate the vehicle in the alleyway as advised by their sergeant. Officer B was unfamiliar with the locking mechanism of the unmarked vehicle resulting in a delay in exiting the vehicle when confronted with the suspect who was brandishing a handgun. Officer B also did not deploy to proper cover, and Officer A did not have his flashlight readily available. After the OIS, Officer B’s broadcast should have contained more complete information. The BOPC found Officers A and B’s tactics to be seriously deficient, requiring administrative disapproval.

The BOPC noted that Officers C and D did not advise Communications Division of their status upon arriving at Officers A and B’s location. The BOPC found that Officers C and D would benefit from divisional training.

The BOPC found Officers A, B, C and D’s drawing/exhibiting/holstering to be in policy, no action; and Officer A’s use of lethal force to be in policy, no action.

As a result of the finding of administrative disapproval for Officers A and B’s tactics, a complaint investigation was initiated. The complaint was “Sustained,” and both officers received an “Official Reprimand.”

The Chief’s Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for tactical training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received 32 hours of “Officer Safety/Field Tactics” training. Subsequent to the adjudication of the incident, Officer A received two hours of “Vehicle Stops – Basic” training.

Subsequent to the adjudication of the incident, Officer B received four hours of “Suspect Tactics & Perimeter Containment” training and two hours of “Vehicle Stops – Basic” training.

## **DRAWING/EXHIBITING/HOLSTERING**

Of the 122 incidents involving a CUOF reviewed by the BOPC in 2005, one resulted in a finding of “out of policy, administrative disapproval” and four resulted in a finding of “in policy, training” for the drawing/exhibiting/holstering of a firearm. The findings for the drawing/exhibiting/holstering in all of the other 117 incidents were “in policy, no action” or “does not apply.” Summaries of the one incident that resulted in a finding of “out of policy, administrative disapproval” (ACC 061-04), and three of the four incidents that resulted in a finding of “in policy, training” (HS 092-04, OIS 109-04, OIS 119-04) are provided in the Tactics section of this report. The one remaining incident that resulted in a finding of “in policy, training” for the drawing/exhibiting/holstering of a firearm is summarized as follows.

Officers A and B followed an individual who had committed a violation of the California Vehicle Code on his bicycle to an apartment complex. The suspect was among a group of individuals standing in front of the complex. Officer A recognized the suspect from prior contacts. The suspect saw the officers and bolted into the courtyard of the apartment complex. The officers pursued the suspect on foot. Officer A caught up to the suspect as the suspect attempted to enter one of the apartments. Officer A attempted to gain control of the suspect. The suspect and Officer A fell to the floor inside the apartment, and a struggle ensued. During the struggle, the suspect put his hand under his body and told Officer A that Officer A would have to shoot him. Officer A drew his service pistol to a close contact position. The suspect attempted to get up off the ground, and the back of his head came into contact with Officer A's service pistol. The suspect then dropped back down to the ground and was taken into custody without further incident.

The BOPC noted that Officers A and B did not notify Communications Division of their status or location. The BOPC noted that Officer A did not alert Officer B of his belief that the suspect was attempting to arm himself during the struggle, handcuffed the suspect while standing him up, and broadcast a backup request after the suspect was in custody and no backup was necessary. The BOPC found that Officers A and B would benefit for additional training at Training Division.

The BOPC determined that on both occasions during this incident when Officer A drew his service pistol, Officer A had sufficient information to believe that the situation might escalate to the point where deadly force may become necessary. However, the BOPC would have preferred that Officer A had stepped away from the suspect before drawing his service pistol during the struggle in the apartment doorway. The BOPC found Officer A's drawing to be in policy, but that Officer A would benefit from additional divisional training.

The BOPC found Officers A and B's nonlethal use of force to be in policy, no action.

The BOPC determined that at the time the suspect's head came into contact with Officer A's service pistol, Officer A reasonably believed the suspect was possibly arming himself and presented an immediate threat of serious bodily injury or death. However, Officer A limited his use of force options by drawing his service pistol while engaged with the suspect. The BOPC found Officer A's use of force to be in policy, but that Officer A would benefit from divisional training.

Subsequent to the adjudication of the incident, Officer A received one hour of "Use of Force and Crisis Intervention Tactics" training and two hours of "Division/Area Directed Training – Tactics."

Subsequent to the adjudication of the incident, Officer B received two hours of "Division/Area Directed Training – Tactics."

## USE OF LETHAL FORCE

The Department considers discharges of a firearm, Upper Body Control Holds and head strikes with an impact weapon to be lethal force. Of the 122 incidents involving a CUOF reviewed by the BOPC in 2005, 5% (6) resulted in a finding that the use of lethal force was “in policy, training,” and 11% (13) resulted in a finding that the use of lethal force was “out of policy/accidental/negligent, administrative disapproval.”<sup>21</sup> The remaining incidents either did not involve the use of lethal force (e.g., ICD, LERI) or resulted in a finding of “in policy, no action” for the use of lethal force.

Of the 13 incidents where the finding was that the use of lethal force required “administrative disapproval,” six were incidents involving an OIS in which officers intentionally discharged firearms at individuals; five were Negligent Discharges; one involved an UBCH; and one involved a head strike with an impact weapon. The six incidents in which officers intentionally discharged firearms at individuals involved a use of lethal force by eight officers. The complaints initiated against these eight officers as a result of the administrative disapproval findings resulted in three officers receiving a 20-day suspension, two officers receiving a 10-day suspension, and one officer receiving a five-day suspension. The complaints against the remaining two officers are still pending as of the writing of this report.

As of the writing of this report, the complaints initiated against two of the five officers who had Negligent Discharges are still pending. The complaints initiated against one of the other five officers who had Negligent Discharges resulted in that officer receiving “No Penalty.” The OIG noted that complaints were not issued against two of the five officers who had Negligent Discharges before the statute for these incidents expired.<sup>22</sup> The OIG contacted the Department and was informed that the complaints were not issued as a result of an administrative oversight.

As of the writing of this report, the complaint against the officer who received a finding of “out of policy, administrative disapproval” for an incident involving a head strike with an impact weapon is still pending.

Of the six cases that resulted in a finding that the use of force was “in policy, training,” three were incidents involving an OIS in which officers intentionally discharged firearms, and three involved a head strike with an impact weapon.

Summaries of OIS 012-04, OIS 034-04, ACC 061-04, OIS 118-04 and OIS 119-04 that resulted in findings of “out of policy/accidental/negligent, administrative disapproval” for the use of lethal force, and summaries of HS 074-04 and HS 079-04 which resulted in findings of “out of policy, training” for the use of lethal force are provided in the Tactics sections of this report.

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<sup>21</sup> These findings and actions applied to at least one of the involved officers in an incident. If at least one of the officers involved was found to have acted out of policy, then the finding for that incident was considered out of policy. If at least one of the officers involved was found to require additional training, but did not act out of policy, then the finding for that incident was considered in policy, training.

<sup>22</sup> ACC 050-04 and ACC 061-04.

The remaining cases that resulted in a finding of “in policy, training,” “accidental/negligent, administrative disapproval” or “out of policy, administrative disapproval” for the use of lethal force are summarized below.

#### OIS 023-04

Officers A, B and C, among others, became involved in a vehicle pursuit of the suspect who had committed a robbery utilizing a knife to threaten the victim. The pursuit continued for approximately 1 1/2 hours. While on surface streets, the suspect made a U-turn, pulled into a driveway bordering the intersection and then slowly backed up toward the officers’ vehicle. The officers exited their police vehicles. Officer A fired 5 rounds at the suspect’s vehicle, Officer B fired approximately 2 rounds at the suspect’s vehicle and Officer C fired a total of 9 rounds at the suspect’s vehicle. The suspect opened his driver’s side door and fell to the ground. The suspect sustained multiple gunshot wounds. A Rescue Ambulance responded and transported the suspect to the hospital where he succumbed to his injuries.

The BOPC noted that Officers A, B and C remained outside their police vehicles as the suspect drove in reverse. The BOPC found that Officers A, B and C would benefit from additional tactical training at Training Division.

The BOPC found that the drawing/exhibiting/holstering of the sergeant and all officers who drew their weapons during the incident to be in policy, no action.

The BOPC was critical of Officers A, B and C’s decision to utilize lethal force. The suspect reversed his vehicle slowly in such a manner that it was apparent that the suspect was attempting to maneuver his vehicle to continue to flee from the officers. Thus, it was not reasonable for Officers A and C to believe the vehicle presented an immediate threat of serious bodily injury or death when they fired at it. The BOPC noted that prior to firing at the suspect’s vehicle, Officer B did not observe muzzle flashes or movement from within the suspect’s vehicle that would have indicated the suspect was shooting at the officers. Officer B also did not observe a firearm in the suspect’s hands as the suspect opened his driver’s side door and turned toward the officers. The BOPC found Officers A, B and C’s use of lethal force to be out of policy, administrative disapproval.

As a result of the finding of out of policy, administrative disapproval for Officers A, B and C’s use of lethal force, a complaint investigation was initiated. The complaint was “Sustained,” and each of the officers received a 20-day suspension.

Subsequent to the adjudication of the incident, Officer A received three hours of “Division/Area Directed Training – Tactics” and two hours of “Division/Area Directed Tactics – Use of Force” training.

Subsequent to the incident but prior to its adjudication, Officer B received 32 hours of “Officer Safety/Field Tactics” training. Subsequent to the adjudication of the incident, Officer B received an additional 32 hours of “Officer Safety/Field Tactics” training and one hour of “Pursuit Intervention Techniques for Officers” training.

Subsequent to the adjudication of the incident, Officer C received 32 hours of “Officer Safety/Field Tactics” training and one hour of “Pursuit Intervention Techniques for Officers” training.

Subsequent to the adjudication of the incident, Officers A, B and C received training regarding the Department’s revised policy regarding shooting at moving vehicle.

#### ACC 036-04

Officers A and B walked out of the jail after booking a suspect and retrieved their service pistols and magazines from the trunk of their police vehicle. Officer A loaded the magazine into his pistol. As he conducted a chamber check, the pistol discharged one round. The officers observed a hole in the rear quarter panel of the police vehicle and located a bullet fragment and expended casing on the ground.

The BOPC determined that an analysis of the tactics and drawing/exhibiting/holstering did not apply to this incident.

The BOPC was critical of Officer A’s handling of his service pistol. The BOPC found Officer A’s use of lethal force to be accidental, administrative disapproval.

As a result of the finding of administrative disapproval for Officer A’s use of lethal force, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief’s Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officer A for firearms training at Training Division as a result of this incident.

Subsequent to the incident but prior to its adjudication, Officer A received four hours of “Firearms Tactical Handgun” training. Subsequent to the adjudication of the incident, Officer A received one hour of “Division/Area Directed Training – Use of Force” training.

#### ACC 050-04

Sergeant A and Officer A were out at Sergeant A’s vehicle. Sergeant A moved around to the side of the vehicle. Officer A observed a nylon bag in the back of Sergeant A’s vehicle. Officer A opened the bag and retrieved Sergeant A’s personal handgun. Officer A conducted a chamber check and did not observe a round in the chamber. Officer A aimed the handgun into the back of Sergeant A’s vehicle and pulled the trigger. The handgun discharged striking some sports equipment in the back of Sergeant A’s vehicle.

The BOPC determined that an analysis of the tactics and drawing/exhibiting/holstering did not apply to this incident.

The BOPC was critical of Officer A for handling Sergeant A's handgun without Sergeant A's permission and without being familiar with the particular type of handgun. The BOPC was critical of Officer A for not ensuring the handgun was unloaded prior to pulling the trigger. The BOPC found Officer A's use of lethal force to be accidental, administrative disapproval.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to discuss the incident with Officer A and provide him with divisional training as a result of this incident.

Due to an administrative oversight, no complaint investigation was initiated as a result of the finding of administrative disapproval for Officer A's use of lethal force. In addition, the only firearms training reflected on Officer A's TEAMS/TEAMS II subsequent to the incident is training regarding the Department's revised policy covering shooting at/from a moving vehicle.<sup>23</sup>

#### UBCH 052-04

While on patrol, Officers A and B observed a stolen vehicle parked at the residence of the suspect who Officer A knew to be a gang member who had previously been investigated for stripping stolen vehicles. The officers contacted Lieutenant A to obtain his approval to conduct a stake out. Lieutenant A approved the stake out and instructed Officers A and B to contact the Crime Response Detail (CRD). Officers A and B contacted the CRD and, among others, Officers C, D and E responded. Officers C and D observed the suspect walk from the stolen vehicle to his personal vehicle, and then walk down the sidewalk. Officers C and D advised the other units of their observation. The officers decided to detain the suspect for further investigation. Officers A and B drove up next to the suspect and asked to speak to him. The suspect bolted, and Officers A and B exited their vehicle and pursued the suspect on foot. Officer A caught up to the suspect and attempted to handcuff him. The suspect resisted and a physical altercation ensued. Officer B responded to the residence to ensure no occupants came to the suspect's aid. Officer A called for Officer B's assistance. Officers C and D responded and attempted to assist Officer A in handcuffing the suspect. The suspect refused to release his left hand from his waistband. Officer D announced, "waistband." Based on Officer D's announcement, Officer C believed the suspect was possibly armed. Officer C applied an Upper Body Control Hold to the suspect. The suspect ceased his resistance and was handcuffed without further incident.

The BOPC noted that Lieutenant A did not assign a supervisor to oversee the stake out operation. Officer A did not ensure that Officer B was aware of the identity of the additional units, particularly the plainclothes officers. The BOPC noted that Officers A and B contacted the suspect while seated in their police vehicle, did not advise Communications Division that they were initiating a foot pursuit and did not advise Communications Division of the location of the termination of the foot pursuit. Officers A, C and D did not communicate with each other while engaged in a physical altercation with the suspect and did not devise a plan to take the suspect into custody. The BOPC noted that Officer B did not provide assistance to Officer A when Officer A initially engaged the suspect. Officer B also was not able to provide responding units

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<sup>23</sup> At the time of this incident, Officer A was not authorized to carry a service pistol on-duty pursuant to a Behavior Science Services evaluation.

with information regarding Officer A's location or the fact that Officer A was involved in a physical altercation with a possibly armed suspect. The BOPC found that Lieutenant A would benefit from divisional training and that Officers A, B, C and D would benefit from additional tactical training at Training Division.

The BOPC found Officer C's drawing/exhibiting/holstering to be in policy, no action; and Officers A, B, C, D and E's use of nonlethal force to be in policy, no action.

The BOPC was critical of Officer C's decision to use deadly force in this situation. At the time Officer C applied an Upper Body Control Hold on the suspect, it was not reasonable for Officer C to believe that the situation had escalated to the point where deadly force was justified. The BOPC found Officer C's use of lethal force to be out of policy, administrative disapproval.

As a result of the finding of out of policy, administrative disapproval for Officer C's use of lethal force, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

There is no training reflected on Officer A's TEAMS/TEAMS II subsequent to the incident that appears to address the issues identified in the incident.

Subsequent to the incident but prior to its adjudication, Officer B received 32 hours of "Officer Safety/Field Tactics" training.

Subsequent to the incident but prior to its adjudication, Officer C received two hours of "Division/Area Directed Training – Tactics." Subsequent to the adjudication of the incident, Officer C received one hour of "Division/Area Directed Training – Tactics."

There is no training reflected on Officer D's TEAMS/TEAMS II subsequent to the incident that appears to address the issues identified in the incident.

#### ACC 078-04

As a follow up to a narcotics investigation, Sergeant A and multiple officers responded to the suspect's residence. They encountered and contained an individual on the front porch of the residence. The individual informed the officers that his grandmother was inside the residence. Officers called out to the grandmother from the open front door. They received no response. The officers then conducted a community caretaking search of the residence to ensure that the grandmother was safe and uninjured. During the course of the community caretaking search, officers located a handgun in plain view. Officer A attempted to clear the handgun, but was unsuccessful. Officer A solicited the assistance of Officer B to clear the handgun. Officer B aimed the handgun downward toward a mattress, pulled the hammer back and attempted to pull the slide back. The hammer moved forward and the handgun discharged one round into the mattress.

The BOPC noted that Sergeant A and four officers initiated the follow-up investigation to the suspect's residence. They transported the suspect to the residence to conduct the follow-up. The BOPC would have preferred that the suspect had been transported to the station prior to the

follow-up investigation. The BOPC determined that Sergeant A and the four officers who initiated the follow-up investigation would benefit from additional divisional training.

The BOPC found the drawing/exhibiting/holstering of Officer A and one other officer who drew their service pistols during the entry into the residence to be in policy, no action; and the nonlethal use of force used by three officers (including Officer B) to be in policy, no action.

The BOPC was concerned that Officers A and B did not seek the assistance of Scientific Investigation Division, Firearms Analysis Unit when they encountered difficulty rendering the found handgun safe. The BOPC found Officer B's use of force to be accidental, administrative disapproval.

As a result of the finding of administrative disapproval for Officer B's use of lethal force, a complaint investigation was initiated. The complaint was "Sustained," and Officer B received "No Penalty."

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officers A and B for additional firearms training at Training Division as a result of this incident.

There is no Firearms training reflected on Officer A's TEAMS/TEAMS II subsequent to the incident beyond the standard training on the Department's revised policy regarding shooting at/from moving vehicles and periodic firearms qualifications.

Subsequent to the incident but prior to its adjudication, Officer B received eight hours of "Firearms Tactical Handgun" training and six hours of "Firearms Tactical Handgun – Train the Trainer" training.

#### HS 080-04

While conducting a follow-up investigation to locate identified gang members, Officers A and B observed a group that appeared to consist of gang members congregating in the parking lot behind a restaurant. The officers believed that the individuals they were attempting to locate may be among the group. The officers pulled into the parking lot and made contact with the group. Additional officers responded to the location. Officers E and F observed a vehicle speed away from the location with one of the individuals they were attempting to locate behind the wheel of the vehicle. Officer E and F elected to follow the vehicle to conduct further investigation.

As the officers were conducting their investigation of the group behind the restaurant, they observed the suspect in a vehicle playing loud music with lyrics that are derogatory to police. Officer A approached the suspect and instructed him to turn the music down. In response, the suspect turned the music up and made derogatory remarks to Officer A. The suspect then reached toward a plastic bag located on his center console. Officer A deployed to the rear of the suspect's vehicle and ordered the suspect to turn off the ignition, exit the vehicle, toss the keys, place his hands behind his head and interlace his fingers. The suspect reluctantly complied. Officer A approached the suspect and attempted to grab the suspect's interlaced

hands. The suspect resisted. Officer C observed Officer A struggling with the suspect and responded to lend assistance. The suspect continued to resist. Officer B retrieved her flashlight from her pocket. Officer B attempted to deliver a distraction strike to the suspect's upper body. However, the suspect moved, and Officer B's flashlight struck the suspect's head. Officer D then responded and assisted Officer A with taking the suspect into custody. After being handcuffed, the suspect lost his balance, and Officers A and D took the suspect to the ground where they were able to control him. A Rescue Ambulance responded and transported the suspect to the hospital where he received six sutures to close a laceration to his forehead.

The BOPC noted that the officers did not obtain supervisory approval prior to conducting a follow-up investigation. The BOPC would have preferred that Officers A and B had waited for additional units prior to making contact with the group behind the restaurant and had advised Communications Division of their exact location behind the restaurant. The BOPC also would have preferred that Officers E and F had remained at the parking lot instead of pursuing the vehicle that left the parking lot. The BOPC also noted that Officers E and F did not advise Communications Division of their location. The BOPC also would have preferred that Officer A had stayed with the group and completed the investigation prior to making contact with the suspect. Once the decision was made to contact the suspect, the BOPC would have preferred that Officer A had requested additional units to assist him. The BOPC would have also preferred that Officer C had communicated her belief that the suspect was attempting to arm himself during the struggle to the other officers. The BOPC also noted that Officer C limited her use of force options by not being equipped with a baton. The BOPC determined that Officers A, B, C, E and F would benefit from additional divisional training.

The BOPC noted that no officers drew their service pistols during the course of the incident.

The BOPC found Officers A, C and D's use of nonlethal force to be in policy, no action.

The BOPC found Officer C's use of lethal force to be out of policy, administrative disapproval.<sup>24</sup>

The administrative disapproval finding was merged into the complaint investigation that had previously been initiated based on the suspect and witness's allegation that the suspect had been intentionally struck on the head by Officer C with a flashlight. As of the writing of this report, the complaint investigation is still pending.

#### OIS 085-04

Detectives had identified a possible suspect in an armed home robbery incident that occurred three months prior and began surveillance of the suspect. The detectives followed the

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<sup>24</sup> The Chief had recommended that Officer C's use of lethal force be found in policy, no action. However, despite this recommendation, the Chief noted that there were discrepancies between Officer C's statement and the statements of the suspect and additional witnesses. The Chief determined that this issue would more appropriately be handled through the complaint process and referred to the complaint that had previously been initiated based on the suspect's allegation of having been struck on the forehead with a flashlight. The sole allegation framed based on this complaint was for unauthorized use of force.

suspect, his girlfriend and an accomplice to a residence that the suspect had previously driven past in a manner consistent with “casing” the residence. The detectives watched as the girlfriend went to the front door of the residence, the suspect went around the side of the house and the accomplice drove away. Shortly thereafter, the accomplice returned, and the suspect and his girlfriend got back in the vehicle and they drove away. The detectives responded to the residence and discovered that the front door was unlocked, a side gate had been kicked in, the alarm was sounding and one of the rooms had been ransacked. The detectives followed the trio and decided to conduct a Vehicle Containment Technique. Detectives A, B, C, D and E positioned their vehicles around the suspect’s vehicle and, once they were stopped at a red light, physically blocked the suspect’s vehicle in, leaving the passenger side of the vehicle as the only means of exiting. The detectives took positions of cover and ordered the occupants to stay in the vehicle. Detective F responded and took a position of cover behind Detectives D and H’s vehicle. The suspect and his girlfriend did not comply with the detectives’ orders. They got out and started to walk away from the detectives. Detective E ordered the suspect to put his hands up. The suspect did not comply and moved his hands around. The suspect then turned toward the detectives and dropped both of his hands toward his waistband. Detective E fired one round from his shotgun at the suspect, striking him in the abdomen. The suspect, his girlfriend and the accomplice were subsequently taken into custody without further incident. A Rescue Ambulance responded and transported the suspect to the hospital where he received treatment for his gunshot wound.

The BOPC noted that Detective E deployed to a position from which he was exposed to the accomplice who remained in the vehicle. Detectives D and F did not advise Detective E that they were in position to assist Detective E with the containment of the suspect and his girlfriend when they got out of the vehicle. The BOPC determined that Detectives D, E and F would benefit from additional tactical training at Training Division and that Detective A would benefit from divisional training.<sup>25</sup>

The BOPC found the drawing/exhibiting/holstering of firearms by all detectives involved to be in policy, no action.

The BOPC found that Detective E had no specific information that the suspect was armed at the time of the incident. Thus, it was unreasonable for Detective E to fire at the suspect based on the suspect’s movement of his hands to his waistband area. The BOPC found Detective E’s use of lethal force to be out of policy, administrative disapproval.<sup>26</sup>

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<sup>25</sup> There is some confusion regarding the Chief’s recommendations for tactics for this incident. The Chief’s recommendation under the “Findings” section of his report does not include any recommendation with regard to Detective A’s tactics. Under the “Tactics” section of his report, the Chief provides no rationale for recommending training for Detective A, but includes him in the list of officers who would benefit from training at the end of the “Tactics” section.

<sup>26</sup> The Chief determined that Detective E reasonably believed that the suspect presented an immediate threat of serious bodily injury or death when Detective E fired. The Chief recommended Detective E’s use of lethal force be found in policy, no action.

As a result of the finding of out of policy, administrative disapproval for Detective E's use of lethal force, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

Subsequent to the incident but prior to its adjudication, Detective D participated in 14 hours of "Vehicle Containment Exercises" and received one hour of "Use of Force and Crisis Intervention Tactics" training.

Subsequent to the incident but prior to its adjudication, Detective E participated in 14 hours of "Vehicle Containment Exercises."<sup>27</sup>

Subsequent to the incident but prior to its adjudication, Detective F participated in 14 hours of "Vehicle Containment Exercises" and received one hour of "Use of Force and Crisis Intervention Tactics" training.

#### ACC 099-04

In preparation for a scheduled firearms inspection and without first having removed the magazine from his service pistol, Officer A pulled back the slide on his service pistol while the pistol was aimed downward into a loading/unloading barrel and recovered the round that was ejected. Officer A then allowed the slide on his pistol to move forward so he could holster the pistol. The pistol then discharged one round striking a nearby police motorcycle.

The BOPC determined that an analysis of tactics and drawing/exhibiting/holstering did not apply to this incident.

The BOPC was critical of Officer A for not properly ensuring that the service pistol was unloaded and the magazine removed prior to allowing the slide to return forward. The BOPC also noted that it was apparent from the incident that Officer A had his finger on the trigger. The BOPC found Officer A's use of lethal force to be accidental, administrative disapproval.

As a result of the finding of administrative disapproval for Officer A's use of lethal force, a complaint investigation was initiated. As of the writing of this report, the complaint investigation is still pending.

The Chief's Report for this incident indicates that, in addition to any findings made or actions taken by the BOPC, the Chief would direct the Commanding Officer to schedule Officer A for additional firearms training at Training Division as a result of this incident.

Subsequent to the adjudication of the incident, Officer A received eight hours of "Division/Area Directed Training – Firearms."

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<sup>27</sup> Detective E's TEAMS/TEAMS II does not reflect any training at all for Detective E subsequent to the adjudication of the incident. At the time of the writing of this report, approximately seven months have past since the incident has been adjudicated.

## **CONCLUSION**

On August 11, 2005, the 2004 Annual Report Regarding Categorical Uses of Force was issued. It was noted in this report that there was a significant number of officers who had been directed to training during 2004 for which it could not be verified that the required training had been completed. In 2005, there were 72 officers who were directed to formal training as a result of being involved in a Categorical Use of Force. The TEAMS/TEAMS II for 59 of these officers reflected training that appeared to be relevant to the issue(s) on which the officers were to be trained. Although this is an improvement from 2004, the issue of verifying that officers are receiving relevant training has remained a concern. Based on this concern, the BOPC has requested that the Department report to the BOPC on a monthly basis with an update regarding training received by officers involved in Categorical Uses of Force and the status of the updating of the officers' TEAMS/TEAMS II to reflect the completed training. In addition, on May 31, 2006, the Department implemented Special Order No. 17 that provides for training on the significant issues raised during the initial stages of the incident investigation to be provided to the involved employees within 21 days of the incident. The OIG will continue to monitor this important issue as the Department continues to ensure that Department personnel receive the appropriate training as a result of Categorical Use of Force incidents.