

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

OFFICER-INVOLVED SHOOTING – 003-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Hollenbeck	1/28/22		
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Officer(s) Involved in Use of Force	Length of Service
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Detective A	26 years, 9 months
Officer A	12 year, 8 months

Reason for Police Contact

Plain-clothes officers observed a subject arm himself with a firearm and conceal it in his waistband. Officers broadcast an additional unit request; however, upon the arrival of the uniformed patrol unit, the subject fled on foot. As the plain-clothes officers attempted to detain the subject an Officer-Involved Shooting (OIS) occurred.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 28 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force (CUOF) incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent Subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on January 10, 2023.

Incident Summary

On Friday, January 28, 2022, plain-clothes Police Officer A, driver, and Detective A, passenger, were working together. The officers were driving in a pick-up truck. The vehicle was not Digital In-Car Video (DICV) equipped.

Note: Officer A and Detective A were not assigned or wearing Body-Worn Video (BWV) cameras.

This was the first time these two officers deployed together in the field in the same vehicle and, according to Officer A, specific tactics were not discussed prior to their deployment. Over the preceding three weeks, these two officers debriefed multiple arrests and investigations.

According to Detective A, the purpose for deploying in the field was to show Officer A certain locations, drug houses, gang members, and locations “that we’ve served warrants [at] and that are continuously giving us issues.”

At approximately 1300 hours, Detective A directed Officer A to park their truck in order to view a particular residence. This was the third location the officers had visited that day. According to Detective A, he/she did not broadcast their location because they did not plan on proactively engaging in any enforcement action.

Detective A identified the residence as a gang and narcotic location and provided information to Officer A about the residents and their gang affiliation. According to Officer A, Detective A utilized binoculars as he/she looked at the residence and identified a few females in the front yard.

Officer A stated they were in their vehicle, approximately 100 feet from the residence.

The officers were parked for approximately 15 minutes when they observed a male with a shaved head and a black jacket (the Subject) exit the unit on the west end of the residence. According to Detective A, he/she immediately identified the Subject, which he/she communicated with his/her partner. Detective A was also aware that the Subject had been the victim of a shooting a month earlier.

Note: Detective A told FID that he/she possessed a photograph of the Subject on his/her personal phone

Officer A described the Subject as paranoid and looking all around.

Both officers described the Subject as standing in the front yard near the steps, reaching down with his right hand, retrieving an object from an unknown location, and tucking the object into his front waistband. Based on their training and experience, both officers believed the Subject had armed himself with a firearm.

According to Detective A, he/she told his/her partner they were not going to get involved; and that they were going to request a patrol unit and the airship and guide them in, which they did.

Uniformed Police Officers B and C broadcast that they would respond. According to Officer B, he/she did not hear any urgency in Detective A's voice and he/she heard the airship over the call; therefore, they did not respond with their vehicle's emergency lights and siren activated (Code Three).

At 1316:58 hours, Air Support Division Pilot Sergeant A, and Tactical Flight Officer D, responded. Detective A broadcast that he/she could see the Subject and described his clothing, location, and direction of travel.

According to Detective A and Officer A, they both slouched down in their seats but watched the Subject. Officer A did not believe the Subject saw them.

The officers moved their vehicle so they could continue to monitor the Subject. According to Detective A, as the Subject crossed the street, he/she observed him (the Subject) run while holding his waistband with his right hand, the same waistband area where the Subject was observed tucking the gun.

At 1317:45 hours, Detective A broadcast an update.

At approximately 1319 hours, Officer D broadcast a request for three additional patrol units to respond.

Officers B and C arrived in the area and Officer B observed the Subject and a second individual, Witness A. Officer B communicated this observation to his/her partner. According to Officer C, based on the tactical situation, he/she had reason to believe the situation could escalate to the point where deadly force may be necessary. While seated in the passenger seat, Officer C unholstered his/her pistol and held it in his/her left hand with his/her finger along the frame as he/she opened the car door with his/her right hand.

As described by Officer B, "They were walking southbound on the west sidewalk and unfortunately when I pulled up near them, there was some vehicles, um, in between us and the [subject]. I decided to position my vehicle slightly in front and to the left of the suspect using the vehicles, the parked vehicles as cover."

According to their DICV, Officer B turned his/her vehicle to the right and faced in a southwest direction. Officer B placed the vehicle in park, but he/she did not exit. According to Officer C's BWV, he/she exited the police vehicle and yelled unintelligible commands as the Subject ran north on the west sidewalk. Officer B told his/her partner to get in the car. Officer C holstered his/her pistol before re-entering the police vehicle. Officer B activated their emergency lights and siren as he/she conducted a three-point turn.

Note: According to Officers B and C, they were not aware of what vehicle Officer A and Detective A were driving.

The Subject ran towards the location where Officer A and Detective A were located.

According to Detective A, "We see the black and white kind of turn in to jam him or to stop him, and he immediately -- when he turns, sees the black and white, he doubles back and starts running northbound in our direction on the west side of the street. And so we're watching. I mean, it's like, oh, shoot. He's coming right at us. And you could see him going into his waistband and then he's running and he's pulling out the gun. And so by this time he's already kind of close to us. And I told my partner, 'Hey, we're compromised,' and so we exited."

Officer A observed the Subject immediately begin sprinting north, on the west sidewalk of the street.

Detective A was still seated inside the vehicle when he/she observed the Subject begin to remove the pistol from his waistband. According to Detective A, as he/she began to exit the vehicle, he/she unholstered his/her pistol.

As both officers stood outside of their vehicle, Officer A identified themselves as police and then communicated with the Subject to stop and to get his hands up.

Detective A described the Subject removing the pistol from his waistband with his right hand.

Detective A described utilizing the car door as cover as he/she observed the Subject now with the gun in his right hand running in his/her direction. Detective A pushed the door open with his/her right hand as he/she held his/her pistol in his/her left hand.

According to Detective A, he/she described a block wall and metal gate as his/her background when he/she observed the Subject raise his pistol and begin to point it in his/her direction when he/she fired his/her first round. Detective A utilized a one-handed grip and, from distance of five to ten yards, aimed at the Subject's center body mass when he/she fired his/her first round. Detective A did not believe he/she struck the Subject with his/her first round as he continued running toward him/her.

Note: During the on-scene investigation, the distance of Detective A's estimated position when he/she fired his/her first shot was approximately twelve feet.

The Subject was still armed with the pistol and held it near his right hip pointing it north as he ran past him/her. Detective A described the same block wall and metal gate as his/her background as he/she utilized a one-handed grip, aimed at the Subject's center mass, and fired his/her second round from an approximate distance of 15 feet. After firing his/her second round, Detective A believed the Subject began to slow down.

Note: During the on-scene investigation, the distance of Detective A's estimated position when he/she fired his/her second shot was approximately eight feet.

According to Detective A, the Subject continued running north away from him/her, still armed with the pistol in his right hand, which he continued to hold near his right hip. Detective A aimed at the Subject's back and side area when he/she utilized a one-handed grip to fire his/her final round from an approximate distance of seven yards.

Note: During on-scene investigation, the distance of Detective A's estimated position when he/she fired his/her final shot was approximately seven feet.

Note: The investigation determined that Detective A fired four rounds.

Note: When FID interviewed Detective A, he/she was asked to demonstrate the timing of the rounds he/she discharged by clapping his/her hands. Detective A clapped his/her hands three times, taking approximately one second to do so. Investigators asked Detective A, "So that was accurate, the way you clapped your hands there?" Detective A responded, "yes."

According to Detective A, after his/her final shot, the Subject fell forward and dropped the gun, which skidded away from him.

According to Officer A, he/she exited the driver's side of their vehicle and unholstered his/her pistol because he/she believed the Subject was armed and he/she may have to use deadly force to protect him/herself or his/her partner. Officer A held his/her pistol with a two-handed grip and his/her finger along the frame.

Officer A observed the Subject running toward his/her partner as he pulled a gun from his waistband. Officer A described a brick wall as his/her background as he/she aimed at the Subject's right side of his body mass. From an approximate distance of six to seven feet, Officer A fired his/her first round. Officer A assessed and believed his/her first shot struck the Subject, as he crouched down and slowed as he continued to run north.

Note: During the on-scene investigation, Officer A estimated the distance between him/herself and the Subject to be approximately 14 feet when he/she fired his/her first shot.

Officer A was aware of crossfire and Detective B's position next to the passenger door as he/she continued to move around the front of his/her vehicle, onto the sidewalk. Officer A observed the Subject turn his shoulders to the right and look over his right shoulder as he began to point the gun in his direction.

According to Officer A, after moving onto the sidewalk and holding his/her pistol in a two-handed low ready, he/she was now facing north. From a distance of six to eight feet, Officer A aimed at the Subject's right back area as he/she fired his/her second round. Officer A assessed and believed his/her second round did not strike the Subject, who continued running north on the sidewalk with the gun in his right hand.

Note: During the on-scene investigation, Officer A’s estimated distance between him/herself and the Subject to be approximately 15 feet when he/she fired his/her second shot.

According to Officer A, he/she took a few steps forward and to his/her left and described the Subject as stumbling, crouching and turning his head and shoulders. Officer A believed the Subject was attempting to turn to shoot him/her. In defense of his/her own life, Officer A aimed at the Subject’s center body mass of his back as he/she fired his/her third round from a distance of eight feet. Officer A assessed and observed the Subject fall forward onto the ground. Officer A observed the gun slide out away from the Subject as he started to scream as if he was in pain.

Additional officers arrived and assisted with taking the Subject into custody and rendering aid. The Subject was later transported to the hospital by a Los Angeles Fire Department (LAFD) rescue ambulance (RA) for treatment.

BWV and DICV Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	N/A	N/A	N/A	N/A	N/A
Officer B	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	Yes	Yes
Detective A	N/A	N/A	N/A	N/A	N/A

Los Angeles Board of Police Commissioners’ (BOPC) Findings

The BOPC reviews each Categorical Use of Force (CUOF) incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC’s review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC determined that the tactics of Detective A and Officer A warranted a finding of Administrative Disapproval. The BOPC determined that the tactics of Officers B and C warranted a finding of Tactical Debrief.

B. Drawing and Exhibiting

The BOPC determined the drawing and exhibiting of a firearm to be In Policy for Detective A and Officers A, B, and C.

C. Lethal Use of Force

The BOPC determined Detective A's rounds one and two and Officer A's round one to be In Policy. The BOPC determined Detective A's rounds three & four and Officer A's rounds two & three to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department

policies that relate to the use of force:

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings: Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;

- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

Use of Force – Deadly: It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force: The Department will analyze an Officers use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the Officers training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Warning Shots: It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an Officers use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall

intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots: The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

A. Tactics

Tactical De-Escalation

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

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

Planning and Assessment – Both Officer A and Detective A had attended an eight-hour Department course on Undercover Operations and Tactical Response training. This was the first time these two officers deployed together in the field in the same car and, according to Officer A, specific tactics were not discussed before their deployment. Over the preceding three weeks, the officers debriefed multiple arrests and investigations. According to Detective A, the purpose for deploying in the field was to show Officer A, “certain locations, drug houses, gang members, and locations that we’ve served warrants and that are continuously giving us issues.” According to Detective A and Officer A, they were not planning on engaging in any

enforcement activity. When they observed the Subject appear to place a handgun in his waistband, Detective A and Officer A planned to have uniformed patrol resources contact him instead of confronting him themselves. Detective A and Officer A assessed his actions as consistent with someone concealing a handgun. Detective A and Officer A continued to monitor the Subject as the situation progressed and updated responding units with pertinent information. When the Subject fled from Officers C and B, Detective A and Officer A planned to stop him.

Time – There is a formula that saves lives, distance plus cover equals time. Although Detective A and Officer A made efforts to use their unmarked police vehicle as cover, their position and decision to apprehend the Subject as he fled placed them at a significant tactical disadvantage.

Redeployment and/or Containment – Detective A and Officer A monitored the Subject as he walked from his residence to a discount store. They re-deployed themselves in their vehicle to be able to monitor the Subject and broadcast updates to the responding units. When Officers B and C approached the Subject, Officer A followed, positioning his/her unmarked vehicle north of their location. Observing the Subject fleeing north towards them, Detective A believed they had been “compromised” and the officers exited their unmarked police vehicle. During the OIS, Officer A redeployed from the driver door of their vehicle to the front of their vehicle and then the sidewalk.

The Use of Force Review Board (UOFRB) noted that according to Officer A, he/she left cover to avoid a crossfire situation with his/her partner while addressing what he/she believed was an imminent deadly threat. While the UOFRB would have preferred that Officer A had not left cover, they understood that he/she did so to avoid having Detective A in his/her foreground.

The BOPC noted that Detective A and Officer A’s plan was to facilitate the Subject’s apprehension using uniformed officers as opposed to apprehending him themselves. As Officers B and C drove toward the Subject, Detective A and Officer A followed at a distance. When Officer C attempted to contact the Subject, he unexpectedly turned and ran toward Detective A and Officer A. In response, and in the absence of an additional patrol unit, Officer A and Detective A established a containment position, north of the Subject. Wearing clearly marked police tactical vests, Detective A and Officer A got out of their vehicle; Officer A identified him/herself as a police officer and told the Subject to raise his hands. While the Subject could have surrendered, he continued to run toward the officers, limiting their ability to contain him. Based on the available evidence, the BOPC believed their attempts to contain the Subject were objectively reasonable.

Other Resources – Rather than making contact themselves, Detective A requested a patrol unit to respond to his/her location for a “415 man with a gun.” Officers B, C, and an Air Unit responded. As the incident progressed, the Air Unit requested three additional units. Multiple units advised they were responding to the request.

Lines of Communication – According to Detective A, while monitoring the residence, he/she observed and identified the Subject, whom he/she knew to be a gang member. This information was communicated to Officer A. After observing the Subject appear to place a gun in his waistband, Detective A asked Communications Division (CD) for a patrol unit for a “415 man with a gun.” As the incident progressed, Detective A, Officer A, and an Air Unit provided updated information regarding the Subject’s actions and location. Arriving at the scene, Officers B and C were guided to the Subject’s location by the Air Unit. Officer C attempted to detain the Subject by telling him to raise his hands. Instead, the Subject fled and ran toward Detective A and Officer A. Officer A exited their vehicle, identified him/herself as a police officer, and told the Subject to raise his hands.

After the OIS, Officer B parked south of where the Subject was lying on the ground. Both officers described seeing the “Narco Officers” with their guns drawn and on the west sidewalk. According to Officer C’s BWV, before exiting their vehicle, he/she communicated to his/her partner, “I’m gonna get [Witness A].” As backup units began to arrive, Officer B communicated to the Subject, “Bro, get on your stomach, get on your stomach and we’ll get you some help. Are you going to get on your stomach?” Officer B then communicated to Officer A, “I’m going to cross.” Officer B moved to his/her left and holstered his/her pistol as he/she approached the Subject. Officers continued to communicate with the Subject to safely apprehend him without the need for additional force.

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

1. Code Six

According to Detective A, the purpose for deploying in the field was to show Officer A “certain locations, drug houses, gang members, and locations that we’ve served warrants and that are continuously giving us issues.” At approximately 1300 hours, Detective A directed Officer A to park their vehicle. According to Detective A, he/she did not broadcast their location because they did not plan on proactively engaging in any enforcement action. Detective A and Officer A parked at the locations for approximately 15 minutes. During this time, they did not broadcast to Communication Division (CD) that on scene (Code Six). According to Detective A, they were not conducting an undercover, surveillance, or tactical operation. As a result, Detective A did not place them Code Six nor did they notify the Watch Commander of their location. After observing the Subject placing a possible handgun in his waistband, Detective A placed them Code Six by requesting a patrol unit for a 415 man with a handgun.

According to Officer C, he/she broadcast their Code Six, but his/her broadcast was not captured on the base frequency. Officer C’s body-worn video (BWV) showed him/her raising his/her handheld radio to his/her mouth twice. Because his/her camera was still buffering, there was no audio yet. According to Officer B, he/she believed that Officer C advised CD that they were Code Six.

The BOPC noted that the UOFRB assessed Officer A and Detective A's adherence to the Department's Code Six policy. The UOFRB noted that Officers A and Detective A were parked near a known gang/narcotics location for approximately 15 minutes before they advised CD of their location. During that time, the officers sat in an unmarked police vehicle while they monitored the location, at times using binoculars to observe people at the residence, including the Subject, an individual that Detective A knew to be a member of a criminal street gang. Based on the totality of the circumstances, the UOFRB opined that the officers were conducting surveillance and should have placed themselves Code Six when they began to monitor activity at the location. The UOFRB also opined that had the officers needed assistance and or been unable to broadcast their location, units may not have been able to locate them and render aid. This was compounded by the fact that the officers were in street clothes in an unmarked police vehicle. As such, the Majority of the UOFRB opined that Officer A and Detective A failed to adhere to Code Six policy's intent.

The UOFRB Minority disagreed with the UOFRB Majority's opinion. The Minority noted that the officers' intention was not to conduct surveillance but for Detective A to provide information regarding problem locations. The UOFRB Minority opined that Detective A and Officer A's actions of merely conducting training and providing information did not meet the definition of surveillance. Because they were not initially conducting an investigation or surveillance, the UOFRB Minority opined that Detective A and Officer A were not required to place themselves Code Six at that point. The UOFRB Minority noted that once they observed the Subject possibly place a handgun in his waistband, they placed themselves Code Six by requesting a patrol unit and advising CD of their location. As such, the UOFRB Minority opined that their actions were not a deviation from approved Department tactical training.

The UOFRB also assessed Officers B and C's adherence to the Department's Code Six policy. The UOFRB noted that according to Officer C, he/she broadcast his/her Code Six location as they approached the scene. The UOFRB also noted the BWV footage which depicted Officer C raising the vehicle's in-car radio microphone to his/her mouth. The UOFRB noted that in the mobile digital computer screen's reflection, Officer C's lips can be seen moving as if he/she was speaking. At or near the time of Officer C's attempted broadcast, the Air Unit was broadcasting updated information regarding the Subject's movements. While Officer C's broadcast was not captured on the base frequency, the UOFRB opined that he/she had attempted to advise CD that he/she and his/her partner were at the scene, but their transmission was cut off by the air unit. The UOFRB further noted that Officers B and C had advised CD that they were responding to Officer A and Detective A's location, the Air Unit was over the scene, and additional units were also responding. As such the UOFRB opined that had Officers B and C needed assistance, units would have been able to locate them

and assist. As such, the UOFRB opined that Officers B and C attempted to adhere to Code Six policy's intent.

Based on the totality of the circumstances, the BOPC found that the tactics employed by Officers B and C were a substantial deviation, with justification, from Department-approved tactical training. The BOPC found that the tactics employed by Officer A and Detective A were a substantial deviation, without justification, from Department-approved tactical training.

2. Undercover and Surveillance Operations

At Officer A's request, Detective A agreed to show him/her problem locations in the division and provide historical background. Detective A and Officer A parked at such a location for approximately 15 minutes. According to Detective A, they were not conducting an undercover, surveillance, or tactical operation. As such, Detective A and Officer A were not wearing body armor while sitting in their vehicle.

After observing the Subject appear to place a gun in his waistband, Detective A requested a patrol unit for a "415 man with a gun." Because they were in an unmarked vehicle and street clothes, they planned to monitor the Subject and provide information to responding units, but not get involved in his detention. The officers monitored the Subject and subsequently donned their tactical vests, which were in the back-seat area of their vehicle.

The UOFRB assessed whether Detective A and Officer A were conducting surveillance. The UOFRB noted that Officer A and Detective A's intentions were not to conduct surveillance. Rather, they intended to provide information to Officer A about problem locations. However, the UOFRB Majority opined that once they began to monitor the location, at points employing binoculars, their actions constituted surveillance. The UOFRB Majority opined that once they began to monitor, Detective A and Officer A should have donned their body armor and notified the watch commander and their supervisor they were conducting surveillance. Therefore, the UOFRB Majority determined that Detective A and Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

The UOFRB Minority disagreed with the UOFRB Majority's opinion. The UOFRB Minority opined that Detective A and Officer A's actions of conducting training at the location did not constitute surveillance. The UOFRB Minority noted that the purpose of surveillance is to covertly monitor a suspect or location to obtain intelligence or evidence of criminal activity. The UOFRB Minority opined that Detective A and Officer A were not initially investigating or surveilling the location and were not required to don their body armor, complete a written tactical plan, or notify their supervisor/watch commander. The UOFRB Minority noted that when they observed the Subject appear to place a gun in his waistband, they broadcast pertinent information to responding units

and donned their tactical vest before contacting the Subject. As such, the UOFRB Minority opined that their actions were not a deviation from approved Department tactical training.

Based on the totality of the circumstances, the BOPC found that the tactics employed by Detective A and Officer A were a substantial deviation, without justification, from Department-approved tactical training.

Additional Tactical Debrief Topics

Backup v. Additional Unit – After observing the Subject appear to place a handgun in his waistband, Detective A requested an additional unit by asking if there was a patrol unit in the area for a “415 man with a gun.” Alternatively, he/she could have requested backup.

Tactical Vehicle Deployment – Instead of stopping their police vehicle behind the Subject, Officer B drove past him. According to Officer B, he/she intended to use their police vehicle and parked vehicles as cover. Alternatively, Officer B could have stopped their police vehicle behind the Subject and positioned it at an angle that would have allowed him/her to use it as cover.

Drawing Service Pistol While Seated in Vehicle – Officer C unholstered his/her service pistol as he/she and Officer B approached B in their police vehicle. Officer C had observed the Subject as he/she and Officer B drove south. Alternatively, Officer C could have waited until the police vehicle came to a stop before unholstering his/her service pistol.

One-handed Shooting Grip - Detective A discharged his/her firearm using a one-handed shooting grip. According to Detective A, he/she opined that he/she may have been holding his/her police radio in his/her support hand.

Profanity – While ordering the Subject to raise his hands, Officer C used profanity.

Personal Protective Equipment – Before taking the Subject into custody and searching him, Officers B and E did not don protective gloves. Before removing the Subject’s handcuffs so he could be secured to the gurney, Officer B did not don protective gloves.

Use of Personal Mobile Device for Photographs – During his/her FID interview, Detective A advised investigators that he/she had an identification photograph of the Subject on his/her cell phone, but advised the photograph was not taken in the field. The Subject had been identified on a prior investigation and Detective A believed he/she would encounter him on future investigations. Detective A also advised investigators that on a prior occasion he/she had taken

a photograph of the Subject using his/her cell phone; however, this was not the photograph on his/her phone that he/she referred to during his/her interview.

Command and Control

- Sergeant B arrived at the scene approximately four minutes after the OIS; he/she was the first supervisor to arrive. Sergeant B identified the involved officers and separated them. Sergeant B monitored Detective A and obtained his/her PSS. Approximately five minutes after his/her arrival, Sergeant B declared him/herself as the Incident Commander (IC). Detective B arrived at the scene shortly after Sergeant B, monitored Officer A, and obtained his/her PSS.

The overall actions of Sergeant B and Detective B were consistent with Department training and expectations of supervisors during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC found that the actions of Detective A and Officer A were a substantial deviation, without justification, from approved Department tactical training. The UOFRB also determined, and the BOPC concurred, that the actions of Officers B and C were a substantial deviation, with justification, from approved Department tactical training.

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

Although it was determined that Sergeant A and Officer D would not receive formal findings, the BOPC noted that they would benefit from attending the Tactical Debrief.

B. Drawing/Exhibiting

Officer C (1st occurrence)

According to Officer C, he/she observed the Subject and Witness A on the sidewalk. Based on the tactical situation, specifically an armed subject, Officer C believed that the situation could escalate to the use of deadly force. In response, Officer C unholstered his/her service pistol as he/she and his/her partner approached the Subject and Witness A in their police vehicle. Officer C held his/her service pistol in his/her left hand with his/her finger along the frame as he/she opened the car door with his/her right hand.

Officer C (2nd occurrence)

According to Officer C, he/she heard that an OIS had occurred; however, neither Witness A nor the Subject had been handcuffed yet. Opining that the Subject and/or Witness A could be armed with a gun, Officer C unholstered his/her service pistol.

Detective A

Detective A was seated inside his/her police vehicle when he/she observed the Subject turn and run from Officers B and C, in Detective A's direction. As he ran, the Subject reached toward his waistband and began to remove his handgun. Believing he/she and his/her partner were "compromised," Detective A unholstered his/her service pistol as he/she exited their vehicle.

Officer A

According to Officer A, he/she observed the Subject running toward him/her and his/her partner. Officer A believed that the Subject was armed with a gun and that the situation may escalate to deadly force, so Officer A unholstered his/her pistol.

Officer B

According to Officer B, he/she responded to a request from plain-clothes officers for a man with a gun. Upon his/her arrival, he/she observed the Subject who ran from Officers B and C. When Officer B redeployed, he/she observed the Subject on the ground with a handgun near him. Believing the Subject still could reach for the handgun, Officer B unholstered his/her service pistol because he/she believed the situation could escalate to the use of deadly force.

The BOPC noted that the UOFRB assessed Officers A, B, C, and Detective A's drawing and exhibiting of their service pistols. The UOFRB noted that Detective A and Officer A had observed the Subject appear to place a handgun in his waistband. In response, the officers requested a patrol unit for a "415 man with a gun." Officers B and C responded to the request. Arriving at the scene, Officer C observed the Subject with Witness A. Believing that the situation may escalate to deadly force, Officer C unholstered his/her service pistol. When Officer C attempted to contact the Subject, he turned and ran north. Observing the Subject running toward them while holding his waistband, Detective A and Officer A exited their police vehicle and unholstered their service pistols. The UOFRB noted that according to Detective A, he/she believed the Subject was pulling the gun out of his waistband. After the OIS, Officers B and C unholstered their service pistols. Officer B saw the gun near the Subject and believed that he could reach for it. Officer C saw that the Subject had not been handcuffed and was unsure if Witness A was armed.

Based on the totality of the circumstances the BOPC found that an officer with similar training and experience as Officers A, B, C, and Detective A, would

reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified. Therefore, the BOPC found Officers A, B, C, and Detective A's drawing/exhibiting of their service pistols to be In-Policy.

C. Lethal Use of Force

Detective A – Pistol, four rounds in a southwesterly direction from a decreasing distance of twelve to seven feet.

Background – When asked about his/her first round, Detective A described his/her background as “a metal door or, like, a block wall.” According to Detective A, no one was in his/her background.

Note: According to the FID report, Detective A described the same block wall and metal gate as his/her background as he/she discharged his/her second round. Per FID investigators, while not expressly stated, this was based on Detective A's description of round two. Although the FID report does not explicitly state Detective A's background when he/she fired round three, the available evidence suggests his/her background was the exterior block wall of a retail market. Given Detective A's inability to recall firing a fourth round, the investigation could not determine his/her background when that round was fired.

Round One

According to Detective A, he/she observed the Subject raise his pistol and begin to point it in his/her direction. In response, Detective A discharged one round at the Subject's center mass from five to ten yards.

Round Two

According to Detective A, after he/she discharged his/her first round, the Subject continued running toward him/her with the handgun in his (the Subject's) hand, held at a 45-degree angle near his right hip, pointing it north. Detective A did not know if his/her first round had struck the Subject. As the Subject ran past Detective A, he/she discharged a second round from his/her pistol at the Subject's center mass.

Round Three

After discharging his/her second round, Detective A believed the Subject was still armed and might shoot him/her and Officer A. Detective A did not know if his/her first round had struck the Subject. According to Detective A, although the Subject may have slowed down, he continued to run north. In response, Detective A discharged a third round from his/her pistol to protect his/her life and his/her partner's life from serious bodily injury or death and to stop the threat. According to

Detective A, after his/her final round, the Subject fell forward and dropped the handgun, which skidded away from him.

Round Four

Although Detective A recalled discharging three rounds from his/her pistol, per the FID investigation, he/she discharged four rounds. This was determined by the number of expended shell casings recovered at the scene and number of live rounds remaining in Detective A's pistol magazine. According to Detective A, it is possible that he/she fired a fourth round.

The BOPC noted that the UOFRB assessed Detective A's lethal use of force. While the UOFRB's findings were unanimous for rounds one and four, there were minority opinions for rounds two and three. As it pertains to round one, the UOFRB noted that Detective A had observed the Subject running toward him/her while removing a gun from his waistband. According to Detective A, the Subject began to raise the handgun in his/her direction. The UOFRB also noted that Officer A had ordered the Subject to drop the weapon; however, the Subject continued running toward Detective A, who was wearing an identifiable police tactical vest. Based on the totality, the UOFRB opined that it was reasonable for Detective A to believe that the Subject posed an imminent deadly threat when he/she discharged his/her first round.

Regarding round two, the UOFRB Majority noted that Detective A did not know if his/her first round had struck the Subject and that the Subject continued running toward him/her. He observed that the Subject was still armed with the handgun and held it near his right hip, pointing it north, as he ran past Detective A. Detective A aimed at the Subject's center mass and discharged his/her second round. The Majority noted how quickly the incident developed and the distance between Detective A and the Subject when he/she discharged the second round. The Majority opined that when Detective A discharged his/her second round, the Subject still posed an imminent deadly threat.

The UOFRB Minority disagreed with the UOFRB Majority's assessment of round two. The UOFRB Minority noted that during his/her FID interview, Detective A described the Subject as running past him/her and holding the pistol near his right hip pointing in a northerly direction. At this point, Detective A was standing east of the Subject, who continued running north. Based upon this information, the UOFRB Minority opined that there was no indication that the Subject was looking to acquire him/her as a target or that the Subject made any motion with the gun that would have led a reasonable officer to believe that he posed an imminent threat of serious bodily injury or death. As such, the UOFRB Minority opined that Detective A's second round was out of policy.

Concerning round three, the UOFRB Minority opined that the Subject still posed a deadly threat when Detective A discharge his/her round. The UOFRB Minority noted

that when Detective A fired, the Subject was running past him/her at nearly a 90-degree angle at a distance of seven feet. The UOFRB Minority also noted that Detective A believed the Subject was still armed and that it would have taken a “split second” to turn and shoot him/her and his/her partner. As such, the UOFRB Minority opined that Detective A’s third round was In Policy.

The UOFRB Majority disagreed with the UOFRB Minority’s assessment of round three. The UOFRB Majority noted that after Detective A’s second round, the Subject continued to run north away from the officers. Detective A stated he/she could no longer see the Subject’s gun but believed he was still armed. The UOFRB Majority opined Detective A’s articulation did not provide any indication that the Subject was looking at him/her to acquire him/her as a potential target or that the Subject made any motion with the handgun that would have led a reasonable officer to believe that the Subject posed an imminent threat of serious bodily injury of death. Although Detective A believed that if the Subject was allowed to continue north, he would pose a threat to the community, based on the available evidence the UOFRB saw no indication that he posed an imminent deadly threat to the public at that point. The UOFRB Majority opined that Detective A was responding to a perceived threat, not an imminent threat, which led them to conclude that round three was out of policy.

As it pertains to round four, the UOFRB noted that although Detective A believed he/she discharged three rounds, the investigation determined he/she discharged four rounds. During his/her interview, Detective A agreed that it was possible he/she fired a fourth round. In assessing Detective A’s fourth round, the UOFRB opined that his/her articulation did not provide any indication that the Subject posed an imminent threat of serious bodily injury when he/she fired his/her last round at the Subject. Therefore, the UOFRB opined that Detective A’s fourth round was Out of Policy.

Based on the totality of the circumstances, the BOPC found that an officer with similar training and experience as Detective A, in the same situation, would reasonably believe the lethal use of force, rounds one and two, was proportional, objectively reasonable, and necessary. Regarding rounds three and four, the BOPC found that an officer with similar training and experience as Detective A, in the same situation, would not reasonably believe the lethal use of force was proportional, objectively reasonable, or necessary. Therefore, the BOPC found that Detective A’s lethal use of force to be In Policy for rounds one and two and Out of Policy for rounds three and four.

Officer A – Pistol, three rounds from an increasing distance from approximately 14 to 20 feet in a northwesterly direction as he/she moved laterally to the west.

Background – For his/her first round, Officer A described his/her background as a brick wall. Officer A described the background during his/her second round as buildings. The FID report is silent as to the background for round three.

Round One

According to Officer A, he/she observed the Subject running toward his/her partner while pulling an object out from his waistband which he/she (Officer A) believed to be a firearm. Office A observed the Subject's body facing toward his/her police vehicle and his/her partner. According to Officer A, the Subject's gun was pointed toward Detective A. Believing the Subject was going to shoot his/her partner, Officer A discharged his/her first round. According to Officer A, the Subject was in the process of raising his gun toward Detective A when he/she discharged his/her (Officer A's) first round.

Round Two

According to Officer A, it appeared that the Subject had been struck by a round; however, Officer A was not sure if it was his/her first round or Detective A's round. Officer A was aware of a possible crossfire situation and his/her partner's position next to the passenger door as he/she continued to move around the front of his/her vehicle, onto the sidewalk. Officer A observed the Subject turn his shoulders to the right and look toward him/her and his/her partner. Believing the Subject was going to turn around, point the gun at him/her and his/her partner, and shoot, Officer A discharged a second round from his/her service pistol.

Round Three

According to Officer A, after he/she discharged his/her second round, the Subject continued to run north. Officer A took a few steps forward and to his/her left and described the Subject as stumbling, crouching, and turning his head and shoulders back. Officer A believed the Subject was going to point his gun at him/her and shoot. In defense of his/her life, Officer A aimed at the center body mass of the Subject's back and discharged his/her third round. The Subject immediately stumbled and fell to the ground, leading Officer A to believe his/her third round had struck the Subject.

The BOPC noted that the UOFRB assessed Officer A's lethal use of force. While the UOFRB's findings were unanimous for round one, there was a minority opinion for rounds two and three. As it pertains to round one, the UOFRB noted that Officer A observed the Subject running toward Detective A as he (the Subject) pulled a handgun from his waistband. Officer A then observed the Subject raising his handgun toward Detective A. Believing that the Subject was going to shoot Detective A, Officer A discharged his/her first round. Based on his/her articulation of the Subject's actions, the UOFRB opined that Officer A reasonably believed that he posed an imminent deadly threat, and that Officer A's first round was In Policy.

As it pertains to rounds two and three, the UOFRB Majority noted that according to Officer A, after discharging his/her first round, he/she observed the Subject turn his shoulders to the right and look toward him/her and his/her partner. Believing the

Subject was going to turn around, point the gun at him/her and his/her partner, and shoot, Officer A discharged a second round from his/her service pistol. According to Officer A, after he/she discharged his/her second round, the Subject continued to run north. Officer A described the Subject as stumbling, crouching, and turning his head and shoulders back. Believing that the Subject was going to point his gun at him/her and shoot, Officer A aimed at the center body mass of the Subject's back and discharged his/her third round. Based on his/her articulation of the Subject's actions, the UOFRB Majority opined that Officer A reasonably believed that he/she posed an imminent deadly threat and that his/her second and third rounds were In Policy.

The UOFRB Minority disagreed with the UOFRB Majority's assessment of rounds two and three. As it pertains to round two, the UOFRB Minority noted that after discharging his/her first round, Officer A believed that the Subject had been struck by a round. The Subject crouched and slowed his pace as he continued northbound on the sidewalk. At this point, Officer A fired his/her second round. Based on Officer A and Detective A's statements, the UOFRB Minority opined there was no indication that the Subject was moving his gun toward either officer when Officer A discharged his/her second round. Instead, the UOFRB Minority opined that the Subject was falling to the ground as a result of being shot and was holding his gun facing forward, in a northerly direction, away from both officers. As such, the UOFRB Minority opined that the Subject did not pose an imminent deadly threat at this point and that Officer A's second round was Out of Policy.

As it pertains to round three, the UOFRB Minority opined that the Subject appeared to continue to fall forward turning his body to the right (east) as he ran north, away from both Officer A and Detective A. The UOFRB Minority noted that per his/her statement, Detective A observed the Subject running past him/her and the Subject holding the pistol near his right hip pointing in a northerly direction. Based on Officer A and Detective A's statements, the UOFRB Minority opined there was no indication that the Subject was moving his gun toward either officer when Officer A discharged his/her third round. As such, the UOFRB Minority opined that the Subject did not pose an imminent deadly threat at this point and that Officer A's third round was Out of Policy.

As it pertains to rounds two and three, the BOPC noted that per FID, based on Officer A's estimations, these rounds were fired from an increasing distance of 15 to 19 feet. The BOPC also noted that when Officer A discharged these rounds, he/she had moved from the driver's side of his/her vehicle to the sidewalk and that he/she (Officer A) had moved north on the sidewalk between rounds two and three. While the BOPC noted that Officer A stated he/she observed the Subject turning his/her head and shoulders back, there was no other indication that the Subject was going to point his gun at the officers. Based on the available evidence, it appears that the Subject was attempting to flee when Officer A discharged these rounds and Officer A failed to articulate an imminent deadly threat.

Based on the totality of the circumstances, the BOPC found that an officer with similar training and experience as Officer A, in the same situation, would reasonably

believe that the lethal use of force, round one, was proportional, objectively reasonable, and necessary. Additionally, the BOPC found that an officer with similar training and experience as Officer A, in the same situation, would not reasonably believe that the lethal use of force, rounds two and three, was proportional, objectively reasonable, or necessary. Therefore, the BOPC found that Officer A's lethal use of force to be In Policy for round one and Out of Policy for rounds two and three.

Requirement to Intercede

Based on its review of this incident, the BOPC determined that the force used was not clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances and would not have required an officer to intercede.