

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

**OFFICER-INVOLVED SHOOTING – 0005-24**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Foothill	02/16/24		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer B	2 years, 3 months
Officer A	15 years, 2 months

**Reason for Police Contact**

Foothill Patrol Division uniformed officers responded to a radio call of a “*Domestic Violence Restraining Order Violation*.” Upon arrival, the officers were directed to the subject, who was inside the rear house of the location. The officers made contact with the subject, who refused to follow their commands and submit to arrest. When one of the officers tased the subject in drive stun mode, he produced a pistol and fired one round at the officers. The subject’s round penetrated a metal bedframe and caused metallic fragments to strike one of the officers on the hand. The subject pointed his pistol at one of the officers once again, which resulted in an Officer-Involved Shooting (OIS). The subject was not struck by the officer’s round and was taken into custody without further incident.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit (X)</b>
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Male: 52 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 BOPC of Police (BOPC); 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 December 17, 2024.

### **Incident Summary**

On Friday, February 16, 2024, Witness A and her 17-year-old son, Witness B were at their residence. Witness A had an active restraining order (RO) against her husband, the Subject

Since Witness A was generally not home in the mornings, she allowed the Subject to respond to her residence to take their son, Witness B, to school.

According to Witness A, at approximately 0700 hours, she was in her bedroom when the Subject arrived to take Witness B to school. Witness A described being caught “*off guard*” by the Subject being at the residence at the same time as she, which prompted her to call 911.

At approximately 0749 hours, Witness A’s 911 call was initially routed to California Highway Patrol (CHP) Communications. She informed CHP Communications, “*I have a restraining order against my husband, and he’s in the house. He...he won’t let me leave him,*” and subsequently provided her name, address, and phone number. While CHP Communications transferred the call to the Los Angeles Police Department (LAPD) Communications Division (CD), Witness A disconnected the line. When LAPD CD Radio Transmitter Operator (RTO) called Witness A back, Witness A advised the RTO that the Subject was no longer at the location, and he did not have any weapons.

As a result of the 911 call, a call for service was generated by CD. The radio call was assigned to Foothill Patrol Division, uniformed Police Officers A and B.

**Note:** Officers A and B were in full police uniform and operating out of a marked black and white police vehicle equipped with a Digital In-Car Video System (DICVS). Additionally, each officer was equipped with their mandatory equipment.

After being assigned the radio call, Officers A and B responded Code Three to the area. At approximately 0755 hours, CD broadcast, “*16A11, additional on your domestic violence restraining order violation [address redacted]. Suspect is a male [race deleted] 52 years, no further description, last seen walking unknown direction from the location.*”

At approximately 0759 hours, Officer B broadcast they were Code Six in the area. Based on the updated information from CD indicating the Subject was no longer at the location, the officers decided to search the surrounding area. The officers did not locate the Subject.

Officers A and B arrived at the location and broadcast a request to have the person reporting (PR) step out and meet with them.

After Officers B and A waited for approximately three minutes, the resident who lived in the primary residence (later identified as Witness C) returned home and met the officers

at the front gate of the property. Witness C advised the officers she believed her neighbors, who lived to the rear of her residence, may have called the police since they were always fighting. Witness C then advised the officers she was going to make contact with her neighbor (Witness A). The officers followed Witness C into the backyard to Witness A's residence. Witness C knocked on the outer metal security door and called Witness A's name. Several seconds later, Witness A can be heard saying, "*I'm not doing nothing. Here. Move,*" moments before she exited the residence and met with the officers.

Once outside, Witness A confirmed she called the police and initially stated, "*He [the Subject] had already left,*" when referring to the Subject's whereabouts. As Witness A spoke with Officer A, Witness C stood in front of the open front door. According to Witness C, as she did so, she observed the Subject inside the residence and informed the officers. In response, Witness A changed her statement and advised Officer A that the Subject was inside her residence with their son, Witness B. Witness A stated she didn't realize the Subject was "*just coming to get clothes*" and he/she was going to leave.

According to Officer A, Witness A appeared to be scared and provided a minimal amount of information. Officer A then directed Witness A and Witness C to step aside as he/she approached the front door of the residence with Officer B, who followed immediately behind him/her.

Officer A pushed open the interior front door of the residence, identified him/herself as a police officer while maintaining a position at the door's threshold, and initiated contact with the Subject.

For the ensuing four and a half minutes, officers attempted to gain compliance from the Subject, who refused to comply with the officers' directions immediately leading up to the OIS.

The Subject, from the onset, refused to cooperate with the officers and told Officer A, "*I'm not going with you.*" While trying to gain his compliance, Officer A advised the Subject that he wasn't under arrest and he/she just wanted to talk to him about the situation.

While Officer A was speaking with the Subject, Officer B stood behind him/her, just outside of the residence.

Officer A continued to verbalize with the Subject, telling him, "*You're not under arrest,*" and "*Let me talk to you about the situation.*" The Subject refused to comply and repeatedly told Officer A he was not going with them and that he did not want to go back to jail.

Officer B broadcast an additional unit request to respond Code Two as Officer A continued to try to gain compliance from the Subject.

**Note:** Officer B advised FID investigators that due to the nature of the call and Witness A informing the officers her son was inside the residence, there was an *“urgent need”* to enter the residence to prevent any potential harm to him/her from the Subject.

At approximately 0810 hours, and approximately two minutes after Officer B requested an additional unit, Witness B exited the bathroom. According to Officer A, he/she was concerned for Witness B’s safety and advised him to stay where he was.

After approximately four minutes of verbally communicating with the Subject, in an attempt to elicit his/her cooperation, Officer A told the Subject he/she was done talking to him and entered the residence. The Subject immediately responded by slightly canting his body to the right, while he partially concealed his right hand behind his back near his waistband. Officer A unholstered his/her pistol and asked the Subject, multiple times, what he was grabbing.

At this point, Officer B unholstered his/her TASER and stood just behind and offset to the right of Officer A.

As the situation escalated, the Subject intermittently concealed his right hand behind his back at waist level and continuously refused to comply with Officer A’s commands. The Subject then began to reach for his front right pant pocket with his right hand when Officer A ordered him not to pull anything out. As the Subject told the officers, *“If you’re gonna shoot me, dude, then just shoot me,”* Officer B broadcast a backup request.

The Subject became visibly agitated as he began to back away from the officers while repeatedly telling them, *“You’re gonna have to shoot me,”* and he was not going back to jail. Officer A then directed Witness B to close the bathroom door.

As Officer A moved closer to the Subject, he/she advised Officer B that he/she was going to maneuver a large rectangular cardboard television box out of his/her path. This resulted in the Subject backing up even further toward the west wall and ultimately between the bathroom door and the foot of a bed. The Subject, once again, canted his body to the right and concealed his right hand behind his back. Officer A immediately asked the Subject what he was *“grabbing.”* The Subject replied, *“my wallet,”* as he ignored the officers’ commands to show his hands.

While the Subject stood near the foot of the bed and faced the officers, Officer B warned the Subject he was going to be tased.

Officer A moved forward and continued to verbalize with the Subject.

Officer A continued to give the Subject commands as he/she moved toward him. The Subject repeatedly stated the officers were going to have to shoot him because he was not going to jail.

Officer A holstered his/her pistol in preparation to take the Subject into custody and went hands on. The Subject resisted.

During the struggle with the Subject, Officer B stood immediately behind Officer A and attempted to assist him/her. At one point, as Officer A moved to his/her right, Officer B gave an additional less-lethal warning immediately before he/she pressed the TASER against the Subject's chest and tased him.

As Officer B utilized the TASER and Officer A continued to struggle with the Subject, the Subject produced a pistol from an unknown location and fired one round in Officer B's direction.

According to Officer A, he/she heard the sound of the TASER activation followed by a single gunshot. Officer A indicated he/she initially was unaware of the source of the gunshot.

While Officer A struggled to subdue the Subject and forced him face down onto the bed, Officer B turned around and observed the Subject pointing a pistol in his/her direction. In response, Officer B raised his/her pistol and fired one round at the Subject. The round missed the Subject and struck the west interior wall. Additional officers arrived to assist, including Officer C, and the suspect was taken into custody without further incident.

**BWV and Digital In-Car Video (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 B	Yes	Yes	Yes	Yes	Yes
Officer A	Yes	Yes	Yes	Yes	Yes

**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 found Officer A and B's tactics to warrant a finding of Tactical Debrief.

**B. Drawing and Exhibiting**

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

**C. Non-Lethal Force**

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

#### **D. Intermediate Force**

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

#### **E. Lethal Use of Force**

The BOPC found Officer A's lethal use of force to be In 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 Subject 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 Subjected 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 subject;
- Whether the subject 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 subject to escape;
- The conduct of the subject 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 subject;
- Officer versus subject 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 officer's 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, Subjects, persons in custody, subjects of a use of force and fellow officers:

- To the extent of the officer's 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 fired 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 officer's 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 fired 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 firing 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 subject.

## 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 subject 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**

The evaluation of tactics requires consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

#### *Tactical De-Escalation Techniques*

- *Planning*
  - *Assessment*
  - *Time*
  - *Redeployment and/or Containment*
  - *Other Resources*
  - *Lines of Communication*
- (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise 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** – Officers A and B worked together on approximately two prior occasions. While en route to the call, they discussed tactics, including contact and cover roles and how those roles can change during an incident, different use of force options and communications. While en route to the call, Officer B read the comments of the call to Officer A, which stated the Subject was the named subject and provided his/her descriptors.

Tactical planning will be further addressed under Debriefing Point No. 1.

**Assessment, Time, Redeployment and/or Containment, Other Resources and Lines of Communication** – Upon arriving at scene, Officer A noticed Witness A appeared to be scared and gave them inconsistent and contradictory statements of the Subject whereabouts. Officer A believed Witness A was in fear of the Subject. As Officers A and B maintained a position at the door's threshold and initiated contact with the Subject, they assessed the Subject's demeanor and actions. Officer A verbalized with the Subject for over four minutes, attempting to build a rapport, gain his compliance and de-escalate the situation. The Subject refused to comply, remaining in the back corner of the room, telling Officer A to shoot him and that he was not going back to jail. During that time, Officers A and B continuously assessed the Subject's actions and demeanor. Officer B requested an additional unit, upgrading to a backup request shortly after. Officer A stepped into the room toward the Subject. As he/she did so, the Subject reached toward his waistband. Officer A unholstered his/her service pistol and continued to verbalize with the Subject and assess his actions. The officers had not received any information that the Subject was armed. Based upon his/her assessment, Officer A believed the Subject was not armed with a handgun but was instead trying to bait Officer A into shooting him. As Officer A continued verbalizing with the Subject, he/she observed the Subject begin to look around the room. This led Officer A to believe the Subject was using the time to try to come up with a plan to avoid arrest. Officer A was concerned the Subject would arm himself with something in the cluttered room or retreat to the bathroom and barricade himself with Witness B, complicating the tactical situation. In an effort to prevent the Subject from escalating the situation, Officer A attempted to de-escalate when he/she holstered his/her service pistol and made the decision to approach and physically detain the Subject.

The UOFRB (Use of Force Review Board) assessed the tactical de-escalation techniques employed by Officers A and B. The UOFRB Majority opined the assessment of the situation, which resulted in Officer A making physical contact with the Subject was deficient. Officer A's actions in an effort to de-escalate led to the situation escalating. The Majority opined, based upon the Subject's physical appearance and display of gang related tattoos, he/she should have been treated as an active and dangerous gang member. Officer A's drawing and exhibiting of his/her service pistol and Officer B's request for a backup in response to the Subject reaching toward his/her waistband, led the Majority to opine Officer A should have concluded the Subject was a dangerous and armed gang member and to treat the situation with different de-escalation tactics. In response to the Subject's words, furtive movements and display of gang tattoos, the Majority opined Officers A and B should have redeployed out of the residence, continue communication with the Subject, awaited additional units and a supervisor and contacted the Special Weapons and Tactics (SWAT) team for further guidance. The Majority further opined officers had time on their side and there was no need for officers to enter the residence. It was the opinion of the Majority that Officers A and B did not properly assess the situation which led to the use of improper de-escalation techniques which were a substantial and unjustifiable deviation from Department-approved tactical training and policy.

The Minority disagreed with the assessment of the Majority. Regarding Officer A unholstering his/her service pistol, the Minority noted the standard for officers to draw or exhibit their service pistols is when circumstances surrounding the incident create a reasonable belief it may be necessary to use the firearm. The Minority further noted the policy includes the clarification and emphasizes when an officer has determined the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Officer A's assessment of the information he/she had received in addition to his/her real time observations led him/her to believe the Subject was not armed. Department policy requires continual assessment and does not mandate an officer's service pistol to remain unholstered throughout the incident. The requirement to assess during an incident is ongoing and the Minority noted that assessment is done with the information known to the officers at the time. Further, the Minority noted the drawing and exhibiting standard required of Officer A to justify drawing his/her service pistol does not require him/her to believe the Subject was actually or even probably armed. Officer A unholstered when he/she observed the Subject reach toward his/her waistband which caused him/her concern that the Subject may have been armed. When the Subject did not produce any weapon, Officer A continued to assess and utilized his/her judgement to form the reasonable opinion that the Subject was not armed but instead attempting to bait Officer A into shooting him/her. Neither officer had any prior contact with the Subject and as such did not have prior knowledge of the Subject's criminal history or gang affiliation. The Minority noted Officer A did observe tattoos on the Subject he/she believed were gang related and acknowledged gang members often carry weapons. While noting this fact, the Minority acknowledged Officer A engaged the Subject for over four minutes, during which time he never produced a weapon, further leading Officer A to believe the Subject was trying to bait him/her into shooting him. The Minority noted the officers had not received any information the Subject was armed prior to or during the interaction leading up to Officer A making physical contact with the Subject. The Minority opined Officer A's assessment was reasonable based upon his/her knowledge, training and experience.

In their assessment, the Minority noted the R/O violation radio call was common and regularly handled by patrol officers. The Minority opined with the information known to the officers at the time, it was unreasonable and inconsistent with Department policy, to expect they should have requested SWAT. The Minority further noted requesting resources neither requires the belief of a subject to be armed nor does it require officers wait for those resources before taking action. Rather, the Department expects officers continuously assess a situation as it evolves and make reasonable decisions to resolve the incident. Finally, the Minority noted force itself is part of Department training as a form of de-escalation. Officer A's belief that the Subject was using time to strategize and potentially arm himself led to Officer A physically contacting the Subject to prevent the situation from escalating. This decision was based upon the information known to Officer A at the time, based upon his/her experience and consistent with his/her training.

The Department's Subject Matter Expert (SME) was asked about the Department's training when dealing with an unarmed, uncooperative individual. The SME advised when communication has reached an impasse, officers are expected to go hands on and referenced Tactical Concept No. 7-Tactical De-escalation, dated May 2024, and summarized how force can be a de-escalation tool and can be used to reduce the subject's aggression.

As Officer A continued assessing, he/she believed the Subject was coming up with a plan to avoid arrest and that his/her actions could escalate the situation. Officer A believed giving the Subject more time would lead to an escalation of the situation, causing Officer A to make the decision to make physical contact with the Subject, which the Minority opined was a reasonable assessment. The Minority opined the belief that officers should have known the Subject was armed, was applying hindsight and found the Majority's assessment of PATROL did not rise to a substantial deviation.

The Minority opined the assessment of the situation by Officers A and B was reasonable and thorough, given the information available to them at the time. Based upon that assessment, the Minority opined the actions of Officers A and B and their use of Tactical De-Escalation techniques were consistent with Department-approved tactical training. Therefore, based on the totality of the circumstances, the UOFRB Minority determined, and the BOPC concurred, the de-escalation tactics of Officers A and B were not a substantial deviation from Department-approved tactical training. To enhance future performance, the BOPC directed this be a topic of discussion during the Tactical Debrief.

During the review of the incident, the following Debriefing Point was noted:

#### **Debriefing Point No. 1: Tactical Planning / Communication**

- Officers A and B responded to a radio call of "*Domestic Violence, Restraining Order Violation.*" When they arrived at scene, they made contact with Witness A. The officers were informed the Subject was the restrained party and was inside the residence. Officers A and B moved away from Witness A and contacted the Subject to detain him prior to conducting further investigation.

The UOFRB assessed the tactics of Officers A and B specifically as it pertained to Tactical Planning and Communication. The UOFRB Majority opined Officers A and B did not adequately plan and communicate with one another prior to contacting the Subject. The Majority argued Officers A and B should have spent more time speaking with Witness A prior to contacting the Subject. The Majority opined this would have allowed them to verify the R/O and determine if a crime had occurred, learn about the Subject's criminal history, and ascertain whether Witness A wanted the Subject arrested. The Majority opined this would have allowed them to obtain better situational awareness before contacting the Subject. The Majority noted there were no injuries to Witness A and opined there was no indication the Subject was a danger to Witness B. The Majority therefore opined there was no urgency for Officers A and B to contact the Subject. The Majority opined Officers A and B

should have taken the time to come up with and discuss a tactical plan, including designating roles prior to contacting the Subject. According to the Majority, this lack of planning resulted in Officer B having to fill several roles, including radio communications, intermediate force and lethal force. The Majority opined Officer B was given too many tactical roles, causing him/her to drop his/her equipment during the incident. The Majority determined the tactical planning and communication employed by Officers A and B was inadequate and a substantial deviation, without justification, from Department-approved tactical training.

The UOFRB Minority disagreed with the Majority's assessment of Officers A and B's tactics as it pertained to their Tactical Planning and Communication. The Minority noted while en route to the radio call, Officers A and B developed a plan when they discussed tactics and designated contact and cover and less-lethal roles. The Minority also noted Officers A and B were responding to a R/O violation radio call with a named subject and subject description provided in the comments. The Minority opined that upon learning the Subject was inside the residence, it was prudent and tactically sound for the officers to attempt to detain him prior to continuing their investigation. By conducting an investigation outside of a residence known to have a subject inside is counter to Department training and sound tactics. The Minority noted the officers had sufficient information to detain the Subject at that point and noted a domestic violence R/O violation was a mandatory arrest, regardless of whether Witness A had been injured or wanted the Subject arrested and did not require an Investigative Report or private person's arrest. The Minority opined the decision to contact the Subject was consistent with Department-approved tactical training. The Minority noted tactical roles had already been assigned between the officers prior to their arrival. The Minority opined Department-approved tactical training does not require officers to come up with a more substantial tactical plan prior to contacting a subject during a standard radio call. After the Subject refused to comply with officers, they adapted their roles and used verbal and non-verbal communication in a manner consistent with Department-approved tactical training. The Minority opined that because Officer A was engaged in a physical struggle with the Subject, it was the responsibility of Officer B to fill the other tactical roles and no amount of pre-designation of roles would have mitigated or lessened that responsibility. The Minority acknowledged the reality that Officer B dropped his/her equipment as a result of the injury to his/her hand and shock of believing he/she had been shot, rather than due to having to fill multiple roles.

The Minority determined the tactical planning and communication employed by Officers A and B were consistent with Department-approved tactical training.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer A and B were not a substantial deviation from Department-approved tactical training.

During the review of this incident, the following Additional Tactical Debrief Topics were noted:

## **Additional Tactical Debrief Topics**

- **Post Incident Communication** – Officer B attempted to broadcast shots had been fired and officers needed help; however, only the officer needs help was rebroadcast by CD. As a result, responding officers were not aware an OIS had occurred. As additional officers arrived, Officer B did not inform them an OIS had occurred. Officer B did not immediately advise supervisors at scene he/she had used his/her TASER on the Subject. Some of this confusion resulted from Officer B's belief the information had already been broadcast.
- **Preservation of Evidence** – After Officer A recovered and placed the Subject's handgun on top of the cardboard television box, Officer B picked it up, dropped it on the floor, recovered it and held it until additional officers arrived. Once additional officers arrived and the Subject was being handcuffed, Officer B placed the Subject's handgun back on the cardboard television box.
- **Retention of Equipment** – After Officer B discharged his/her TASER and the Subject fired at him/her, Officer B dropped his/her TASER on the floor. Shortly after Officer B fired his/her service pistol, he/she dropped it as he/she attempted to holster it. Officer B proceeded to retrieve his/her service pistol and TASER, placing his/her handheld radio on the floor. A few seconds later, Officer B returned to pick up his/her handheld radio from the floor.
- **Tactical Language** – When the Subject refused to comply with Officer A's commands to move away from the bathroom door, Officer A referred to the Subject as "stupid" and "dumb." Officer B used profanity when he/she provided the use of force warning to the Subject he/she would be tased.
- **Tactical Vehicle Deployment** – After being advised by CD the subject had left the location, Officers A and B canvassed the area for the Subject. After being unable to locate the Subject, Officers A and B parked directly in front.

## **Command and Control**

When Officer C arrived at scene, Officer A was taking the Subject into custody. Officer C directed other responding officers to assist with detaining Witness B and to secure the crime scene as she secured the Subject's handgun.

**Note:** Officer C took possession of the Subject's handgun from the cardboard TV box and rendered it safe by removing its magazine and locking the slide to the rear before placing the magazine and handgun back on the cardboard box. Officer C later stated to FID investigators, at the time she rendered the Subject's handgun safe, she was unaware an OIS had occurred and believed it was a domestic violence incident. Officer C further explained she wanted to eliminate any threat of someone using the handgun against herself, officers or others. Officer C secured the handgun and magazine separately inside his/her police vehicle. Once



he/she was made aware an OIS had occurred, he/she advised Sergeant A he/she had recovered the Subject's handgun.

Sergeant B, and Sergeant A responded to the help call. They arrived shortly after the OIS had occurred and the involved officers were already outside the residence. Upon becoming aware an OIS had occurred, Sergeant A broadcast he/she was the Incident Commander (IC). Sergeant A, with the assistance of Sergeant B, proceeded to identify the involved officers and separated Officers A and B. Additionally, Sergeant B assisted Sergeant A in managing the scene.

During the incident, Sergeant A performed multiple supervisory tasks, including directing Officer C to request a rescue ambulance (RA) for Officer B, directing street closures, separating and monitoring the involved officers, directing officers to set up a crime scene and canvass for witnesses, establishing a Command Post and directing officers to transport the Subject to Foothill Station for booking.

Sergeant A obtained a Public Safety Statement (PSS) from Officer B. Sergeant B obtained a PSS from Officer A. After the officers gave their PSS, they were each monitored and separated by supervisors until interviewed by FID.

The overall actions of Officer C and Sergeants B and A were consistent with Department training.

### **Tactical Debrief**

- In conducting an objective assessment of this case, the BOPC determined that the actions of Officers A and B were not a substantial deviation from Department-approved tactical training. Each tactical incident merits a comprehensive debriefing. In this case, there were areas identified where improvements could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

Therefore, the BOPC directed Officers A and B attend a Tactical Debrief and the specific identified topics be discussed.

### **Drawing/Exhibiting**

#### **Officer A**

- According to Officer A, he/she observed the Subject reach toward something in his waistband, causing him/her to be concerned the Subject may have been reaching for a weapon. Officer A unholstered his/her service pistol, believing the situation could escalate to the use of deadly force.

## Officer B

- According to Officer B, he/she observed the Subject armed with a handgun and pointing it in his/her direction. Officer B unholstered his/her service pistol because he/she believed the situation could escalate to the use of deadly force.

The UOFRB assessed Officer A's drawing and exhibiting of his/her service pistol. In their assessment, the UOFRB noted Officer A observed the Subject reaching toward his waistband and concealing his hand, causing Officer A to believe the Subject was possibly armed with an unknown type of weapon. The UOFRB opined the Subject's actions created a reasonable belief the incident could escalate to where it could be necessary to use deadly force.

The UOFRB assessed Officer B's drawing and exhibiting of his/her service pistol. The UOFRB noted Officer B unholstered his/her service pistol after believing he/she had been shot by the Subject and observed the Subject holding the handgun and pointing it at him/her. The UOFRB opined this created a reasonable belief the incident could escalate to where it could be necessary to use deadly force.

Based on the totality of the circumstances, the BOPC determined officers with similar training and experience as Officers A and B would reasonably believe there was a substantial risk the situation may escalate to where deadly force may be justified.

Therefore, the BOPC found Officers A and B's Drawing/Exhibiting to be In Policy.

## Non-Lethal Use of Force

- **Officer A – Firm Grips, Physical Force, Bodyweight and Elbow Strike.** According to Officer A, he/she continued giving the Subject commands as he/she moved toward him. The Subject refused to comply with directions and stated multiple times they were going to have to shoot him. Officer A approached the Subject and used his/her right hand to grab the Subject's left arm with a firm grip. The Subject attempted to pull away and Officer A then used his/her free hand to enforce the firm grip and used physical force to pin the Subject against the wall. Officer B then tased the Subject.

According to Officer A, when he/she heard the TASER go off and a gunshot, he/she used physical force to lay the Subject onto the bed while he/she still maintained a firm grip on the Subject's left arm. Officer A got on top of the Subject and used bodyweight to keep him/her down on the bed. As Officer A heard the second gunshot, he/she attempted to gain control of the Subject's right arm and observed him holding the handgun. Officer A released the Subject's left arm and used his/her bodyweight and the bed as controlling agent and attempted to retrieve the handgun from the Subject's right hand. Officer A applied firm grip and physical force to the Subject's right arm as he/she attempted to take the handgun from the Subject.

According to Officer A, he/she then used his/her right elbow to strike the Subject in the face to get him/her to let go of the gun. Although aiming for the Subject's face, Officer A was unsure if he/she struck the Subject's face or neck with his/her elbow. Officer A removed the gun from the Subject's hand and continued using bodyweight and firm grips to maintain control of the Subject. Officer A used physical force to turn the Subject onto his stomach and pull his arms behind his back. Once Officer A had the Subject's hands behind his back, he/she handcuffed the Subject.

The UOFRB assessed Officer A's use of non-lethal force. The UOFRB noted while trying to take the Subject into custody, Officer A used firm grips, physical force, bodyweight and an elbow strike to disarm the Subject and handcuff him. Based on the Subject's level of resistance, the UOFRB opined the force applied by Officer A was objectively reasonable and proportional. Furthermore, the UOFRB recognized and commended Officer A for his/her level of restraint and reverence for human life by utilizing non-lethal applications of force after observing the Subject armed with a handgun.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe the use of non-lethal force was proportional and objectively reasonable.

Therefore, the BOPC found Officer A's Use of Non-Lethal Force to be In Policy.

## **Intermediate Use of Force**

- **Officer B – TASER.**

### **First and Second Activation**

As Officer A communicated with the Subject, the Subject canted his body to the right and concealed his right hand behind his back. The Subject ignored officers' commands to show his hands, at which time, Officer B warned the Subject he would be tased. Shortly thereafter, Officer A approached the Subject to grab him. When Officer B observed the Subject physically resist Officer A, he/she gave an additional less-lethal warning immediately before he/she pressed the TASER against the Subject's chest and drive stunned him. Officer B did so in response to the immediate threat of danger the Subject posed and in order to avoid using higher levels of force.

The UOFRB assessed Officer B's use of intermediate force. In their assessment, the UOFRB noted each time Officer B discharged the TASER, the Subject was actively resisting and posed an immediate threat to the safety of the officers. Despite multiple attempts to communicate with the Subject to have him comply with commands, the Subject refused to comply, challenged officers to shoot him and physically resisted. As such, the UOFRB opined both TASER drive stuns by Officer B were reasonable and proportional in response to the Subject's behavior.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, in the same situation, would reasonably believe the use of intermediate force was proportional and objectively reasonable.

Therefore, the BOPC found Officer B's Use of Intermediate Force to be In Policy.

### **Lethal Use of Force**

- **Officer B** – Pistol, one round from an approximate distance of nine feet in a westerly direction.

**Background** – The investigation determined the background for the round fired by Officer B was the southwest wall of the rear residence. Officer A was approximately three feet from where B's round struck the wall. According to Officer B, he/she believed he/she had been shot and feared for his/her life. As Officer B moved away from the Subject and toward the front door, he/she turned around and observed the Subject pointing a handgun in his/her direction. According to Officer B, the Subject pointed his/her handgun at him/her for approximately five seconds before he/she was able to obtain a sight picture and fire a round at the Subject. Officer B fired one round from his/her service pistol at the Subject to protect him/herself from the imminent threat of serious bodily injury or death.

The UOFRB assessed Officer B's use of lethal force. The UOFRB acknowledged the officers' attempts to de-escalate the situation through the use of verbalization and deployment of the TASER. The UOFRB noted the Subject refused to comply with officers' commands and then physically resisted when Officer A approached to take him into custody. During the struggle, the Subject armed himself with a handgun and fired one round at Officer B. The UOFRB opined the Subject escalated the situation and demonstrated his willingness to commit violence by posing an imminent threat to the officers' lives. The UOFRB further noted Officer B resorted to lethal force when he/she discharged his/her service pistol at the Subject because the Subject continued to point his handgun directly at him/her. Therefore, the UOFRB opined the use of lethal force was necessary and proportional.

The UOFRB assessed Officer B's background at the time of the OIS. The UOFRB noted the Subject's actions of pointing his handgun at Officer B created an imminent deadly threat which necessitated an immediate response by Officer B to protect his/her own life. The UOFRB recognized Officer B's attempt to minimize risk to Officer A as Officer B only discharged his/her service pistol when Officer A was not in the foreground. Furthermore, the UOFRB recognized Officer B maintained fire control and was cognizant of his/her background and foreground. Officer B did not discharge his/her firearm when he/she observed the Subject point his handgun at him/her a second time as Officer A was in the foreground at that time. As such, the UOFRB opined Officer B's efforts to balance the necessity of addressing the imminent threat to his/her life with his/her background were objectively reasonable given the totality of the circumstances.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, in the same situation, would reasonably believe the use of lethal force was objectively reasonable, proportional and necessary.

Therefore, the BOPC found Officer B's Use of Lethal Force, to be In Policy.