

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

OFFICER-INVOLVED SHOOTING – 020-22

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes (X) No ()**

Olympic 6/2/22

Officer(s) Involved in Use of Force **Length of Service**

Officer A 18 years

Reason for Police Contact

Officers responded to a radio call of an Assault with a Deadly Weapon (ADW) suspect armed with a handgun. Officers located the Subject and attempted to detain him. The Subject ran from the officers, removed a handgun from his waistband, and an officer-involved shooting (OIS) occurred. The Subject was struck by gunfire but continued running through a parking lot, where he collapsed on the ground. Officers rendered medical aid until the arrival of Los Angeles Fire Department (LAFD) paramedics, who determined the Subject to be deceased.

Subject(s) **Deceased (X)** **Wounded ()** **Non-Hit ()**

Subject: Male, 24 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 April 11, 2023.

Incident Summary

On Thursday, June 2, 2022, between the hours of 0730 and 0800 hours, Witness A was standing in the front lobby of his apartment building when he observed a male (the Subject) across the street spray-painting gang graffiti on a wall. According to Witness A, the Subject was wearing glasses, a black beanie, a white tank top, and black-and-white colored shorts. Witness A observed the Subject vandalize the west wall with gang slogans using blue spray paint.

At approximately 0800 hours, Witness B parked her vehicle in a metered parking spot on the east curb across the street from where Witness A lived. While in the driver's seat of her vehicle, she observed the Subject loitering on the east sidewalk as he spoke to three unidentified males. The Subject then approached the passenger side of her vehicle and shouted profanities at her as he repeatedly kicked her vehicle. Witness B had parked near the Subject's bicycle and believed that that the Subject may have thought that she struck his bicycle.

Frightened and feeling threatened, Witness B remained inside her vehicle. As the Subject continued to shout at her to get out of her vehicle, she observed five male juveniles, approximately 14 to 15 years of age, walking south on the west sidewalk. The Subject's attention was diverted to the males as he began shouting expletives at them and telling them, "Get out of my street!" The Subject then walked in front of Witness B's vehicle and made his way toward the group of juveniles.

According to Witness A, the Subject approached the juveniles and specifically focused his attention on one unidentified male, wearing a black baseball cap and gold necklace. The Subject demanded to know what gang they represented. Witness A indicated that the Subject asserted his gang affiliation to the group as he yelled his gang name and disrespected other gangs.

The Subject positioned himself into a fighting stance directly in front of the male with the gold necklace and then lifted the bottom of his white tank top with his right hand exposing his waistband. According to Witness A, he observed a black semi-automatic handgun protruding from the front of the Subject's shorts. The Subject suddenly swung his right hand and punched the male on the face. The other juveniles ran south and left the unidentified male victim alone with the Subject. The victim turned away from the Subject and walked south. The Subject followed the victim, while making unintelligible statements to him. The victim and Subject then turned west and out of Witnesses A and B's view. Witness B then exited her vehicle and walked home. Force Investigation Division (FID) investigators attempted on several occasions to locate the unidentified male victim and the juveniles who ran away, but were unsuccessful.

At 0814:37 hours, Witness A called 911 and reported to Communications Division (CD) that he observed the Subject assault someone with a gun.

At 0815:45 hours, a surveillance video captured the Subject returning to a small shopping center located on the northeast corner with a different unidentified male.

At 0817:45 hours, CD broadcast the call of an ADW suspect (the Subject), armed with a handgun and provide the location and description. CD indicated that the Subject was drawing graffiti and last seen on a white bicycle.

At 0832:10 hours, surveillance video showed the Subject was now attired in a gray t-shirt over his tank top and pushing a white bicycle with a black hoodie over the handlebars.

At 0848 hours, Witness A called 911 again, informing CD that the Subject returned to the area and was now wearing a gray shirt.

At 0851:05 hours, in response to Witness A's updated information, CD upgraded the call to Code Three (emergency lights and siren). CD broadcast that the Subject was in front of a business, provided relevant descriptors, and indicated that the Subject had a handgun in his waistband.

CD assigned the call to Police Officers A (passenger) and B (driver). The officers' vehicle was marked black and white, equipped with ballistic door panels and digital in-car video (DICV).

Officers A and B had worked with each other as partners for approximately one year. During their FID interviews, the officers stated that they have routinely discussed their tactical approaches on foot pursuits, officer-involved shootings (OISs) and contact and cover roles. Additionally, both officers had an understanding that their roles during a tactical situation were subject to change, due to the potential fluid nature of an incident. According to Officer A, on the day of the OIS, they discussed foot pursuits and OIS tactics at the start of watch.

As they responded Code Three to the call, Officer A read out loud the comments of the call to Officer B. As the officers traveled east towards the call, Officer B shut down their emergency lights and siren. The officers' goal with the shutdown was to prevent the Subject from being alerted to their presence in the area.

The officers unbuckled their seatbelts as they turned north. At 0857:20 hours, Officer A broadcast they were at scene (Code Six). Officer B slowly drove north, as the officers visually scanned the area but were unable to find the Subject. Initially, Officer A believed that the location of the Subject was located further north, near a business and homeless encampment.

Based on surveillance video, the investigation determined when the officers turned north, the Subject and an unidentified heavyset male looked in the direction of the police vehicle and ran south to a parked white van located on the northeast corner of the parking lot and hid behind the van. The Subject then pulled out a black semi-automatic

handgun from his front waistband and hid it in the rear passenger tire area of the van. When the officers continued north, the Subject returned to the van, retrieved the handgun, and placed it in his front waistband.

The officers drove north in search of the Subject. Realizing that they had driven past the address provided by CD, Officer B conducted a three-point turn and drove south. Throughout the search for the Subject, the officers continued communicating with each other regarding the call to include the correct location to search. Officer A continued to read the description of the Subject to Officer B.

As the officers drove near the west driveway of the parking lot, Officer A observed the Subject and the unidentified male walking west on the walkway. Officer A recognized that the Subject matched the descriptors of the Subject from the comments of the call and advised his/her partner.

According to Officer B, he/she also observed the Subject, and they made eye contact with one another for approximately three seconds. Officer B also observed the Subject walking with his hands in a downward position.

As Officer B made a second three-point turn to head north, Officer A was able to see the Subject, who was looking back at them a lot.

As the vehicle turned northbound, Officer A opened his/her door and unholstered his/her pistol with his/her right hand. Officer A stated that he/she unholstered his/her pistol while seated in the moving vehicle. According to Officer A, they were in a bad position and stated that if the Subject wanted to shoot them, he would come from behind them and they could not do anything about it. Officer A was concerned about being stuck in his/her vehicle and felt that the situation could escalate to a lethal use of force, so at that point, he/she unholstered his/her pistol.

The officers continued to drive slowly toward the Subject, who was walking north on the east sidewalk. The officers estimated that the Subject was approximately 40 feet in front of them, as they closed the distance. The Subject was walking approximately ten feet behind a heavysset unidentified male. At 0859:20 hours, Officer A had his/her pistol in a one-handed low-ready position, when he/she picked up the radio microphone with his/her left hand and broadcast that they would be Code 6 (on scene) on the Subject.

Officer A shouted at the Subject and the unidentified male for both of them to stop. According to both officers, they intended to detain the Subject for an ADW investigation. Upon hearing Officer A's commands, Officer B stopped the vehicle, positioning it in the roadway south of the Subject's location. The investigation determined that the distance between the Subject and officers' vehicle when they stopped was approximately 20 feet. In response, the Subject briefly stopped and turned his head to the left in the officers' direction. The Subject quickly turned his body to the left, grabbed his front waistband with his right hand, and ran south on the sidewalk passing the police vehicle. Officer A immediately exited the vehicle with his/her pistol in his/her right hand at a low-ready

position, while running south in the roadway toward the Subject's direction. According to Officer A, as he/she ran after the Subject in the roadway, he/she observed the Subject remove a handgun from his front waistband with his right hand. Officer A believed that he/she advised Officer B that he/she observed a gun, while exiting their vehicle. However, a review of the officers' body-worn video (BWV) determined that this alleged verbalization did not occur.

According to Officer B, as soon as his/her partner ran after the Subject, he/she believed that they were in foot pursuit. Officer B quickly removed the keys from the ignition and exited the vehicle. As he/she exited, Officer B inadvertently dropped his/her keys on the floorboard. Not wanting to leave the keys behind, Officer B bent forward and picked them up. During this brief time, Officer B momentarily lost sight of his/her partner and the Subject. Officer B stated he/she did not want to leave the keys inside the vehicle, due to weapons being there.

Officer A continued to run after the Subject, shouting, "Stop, stop!" According to Officer A, the Subject turned his body to the right, raised his right elbow upward, and pointed the barrel of the handgun in his/her direction. Officer A stated that this was the first time the Subject pointed his handgun at him/her.

Officer A decided not to fire at the Subject due to his/her background, noting businesses in the area. Officer A's BWV did not capture the Subject pointing the handgun at him/her. Throughout the incident, the Subject was intermittently in and out of Officer A's BWV camera view due to the police vehicle passenger-side door, two parked vehicles on the east curb, constant change in the BWV camera angle, and Officer A's raised left arm.

Officer A noted that he/she continued running after the armed Subject to ensure that he did not get away, because of the need to set up a perimeter, and to obtain a better description of the Subject.

According to Officer A, as the Subject continued to run, he began to raise his right arm to shoulder level, with a gun in his hand canted towards Officer A.

Officer A stated he/she recalled the second occurrence happening more towards the driveway when the Subject had the gun in his right hand. Officer A stated that the Subject lifted his right elbow and did not point the gun at him/her yet, but he was doing the same gesture as before where he was going towards him/her. According to Officer A, at that point, he/she did not want the Subject to shoot at him/her or his/her partner, so that is why he/she shot. Officer A wanted to stop the Subject's actions from getting to that point.

Based on Subject's body movements, Officer A believed that the Subject intended to shoot him/her, so he/she stopped running. In immediate defense of his/her life, Officer A raised his/her pistol in a standing two-handed shooting stance, aimed it at the

Subject, and fired a single round. Officer A's background included a commercial building and vehicles in a parking lot.

The investigation determined that Officer A fired one round in a southeasterly direction from approximately 22 to 23 feet.

Officer B was running south near the rear passenger side of his/her vehicle when the OIS occurred. Officer B believed that either the Subject or his/her partner had fired their pistol. Officer B unholstered his/her pistol and continued running south to his/her partner's location. Based on Officer B's BWV, at 0859:39 hours, Officer B broadcast a "shots fired, officer needs assistance" call and provided the location. The frequency recording only captured a broadcast of Officer B's location, however.

According to Witness C, he was walking north when he observed/heard the officers' ordering the Subject to stop. Witness C observed the Subject running south while holding a handgun with both hands near his front waistband. As the Subject continued running, Witness C heard one shot but was unsure which officer fired.

Unbeknownst to Officer A, the Subject was struck by his/her gunfire but continued to run approximately 100 feet in the parking lot before falling to the ground between two parked vehicles.

Officers A and B ran to the parking lot, positioned themselves behind a parked vehicle, and used it as cover. From the officers' position, they could not see the Subject; and they believed that he was possibly hiding behind the vehicles while in possession of a handgun. The officers moved to the rear of another parked vehicle to gain a better view of the Subject. From this position, the officers were able to observe the Subject on the ground with his arms underneath his chest and his legs pointed north. The Subject's head was face down and pointed south. During this time, the Subject's upper body was moving in an up and down motion. According to Officer A, he/she could see a portion of the barrel of the handgun protruding from underneath the Subject's chest area. The officers maintained their position of cover and waited for additional LAPD personnel to arrive.

In response to the officer help call, Officers C, D, E, F, G, H, and Sergeant A responded. Officers C, D, and F arrived and positioned themselves behind Officers A and B. Officer A advised the responding units where the Subject had the handgun.

At 0859:51 hours, Officer C broadcast that he/she had a "shots fired, officer needs help" call and provided the location. At 0900:05 hours, Officer C also requested a rescue ambulance (RA) for the Subject.

Officer A observed that the Subject was no longer moving and was bleeding profusely. The position of the handgun had not changed, and he/she believed that the Subject now needed immediate medical aid. Officer A assigned officers to designated roles within the arrest team and what appeared to be the necessity of medical treatment.

Officers B and C directed the Subject to not move. At 0901:44 hours, the arrest team began approaching the Subject.

Officers A and B were the designated cover officers. Officers C and F were the designated arrest team and would handcuff the Subject. Officer D was the designated less-lethal force officer, equipped with a Taser. Officer E was the designated communications officer.

According to Officer F, as the officers approached, the Subject was still positioned face down on his stomach and motionless. A portion of the handgun was visible beneath the Subject's right neck and shoulder area. The Subject's hands were cupped together underneath the center of his chest. The grip of the handgun was partially in the palm of the Subject's hand.

Officer C grabbed the Subject's left forearm, removed his arm from underneath his body, and handcuffed his left wrist. While wearing gloves, Officer F grabbed the rear slide portion of the Subject's handgun, removed it from underneath his body, and placed it approximately one foot away. Officer F subsequently grabbed the Subject's right arm and placed it behind his back. Officer C completed handcuffing the Subject.

Once handcuffed, Officers C and F positioned the Subject into the left lateral recovery position. Officer E separated the Subject's legs to ensure the Subject did not roll back down on his face. The officers assessed the Subject for injuries and located a gunshot wound on his back. Using a pair of bandage scissors, Officer E cut off the Subject's shirt, located an exit wound on his chest, and used gauze over the wound in an attempt to stop the bleeding. Officer C checked for a pulse but did not detect one and informed the officers in the vicinity of this. The officers uncuffed the Subject and moved him approximately three feet away from the gun to facilitate chest compressions.

Officers A and B holstered their pistols once the Subject was handcuffed and then separated themselves from the Subject and other officers.

At 0904:46 hours, Sergeant A arrived, broadcast he/she was at scene, and declared himself/herself the incident commander (IC). With an outstanding suspect potentially still in the vicinity, Sergeant A coordinated the response of the responding officers and the air unit (helicopter) overhead. Simultaneously, Sergeant A separated Officers A and B. After attending to the search for the outstanding suspect, Sergeant A directed the officers to turn off their BWV and take a public safety statement (PSS). The outstanding suspect was never located.

At approximately 0908 hours, Los Angeles Fire Department (LAFD) RA paramedics arrived and took over medical attention of the Subject. Despite the officers and paramedics' life-saving efforts, the paramedics determined the Subject deceased at 0910 hours.

At 0910 hours, Lieutenant A arrived at scene and established a command post. Sergeant A indicated that Lieutenant A verbally advised that he/she would take over as IC of the scene. Working together, Lieutenant A and Sergeant A directed officers to establish a crime scene and canvass the area for witnesses.

Sergeant A relinquished monitoring duties of Officers A and B to other supervisors. Officers A and B were transported to Olympic Station and monitored until they were relieved by FID investigators.

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	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' 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 this incident, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A and B's tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force 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 or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officers A and B have been partners for approximately one year during which they routinely discussed tactics regarding foot pursuit concepts, contact/cover roles, and OISs. Officers A and B had discussed not responding directly to the location on long streets and deactivating their emergency lights and sirens earlier to avoid giving away their location.

Assessment – Observing the Subject, Officer A opined that he was the suspect in the radio call. According to Officer A, the Subject pointed his handgun at him/her (Officer A) during the foot pursuit. Based on his/her assessment of the background, Officer A did not discharge his/her service pistol. Per Officer A, his/her background was a liquor store, restaurant, and laundromat at that point. Seeing the Subject raise his right arm to shoulder level, Officer A believed that the Subject was going to point the handgun at him again. Based on his/her observations, Officer A assessed an imminent deadly threat.

Time and Redeployment/Containment – Observing the Subject, the officers made a three-point turn and drove toward him. They estimated that the Subject was approximately 40 feet in front of them as they closed the distance. Hearing Officer A's commands to the Subject, Officer B stopped the vehicle, positioning it in the roadway south of the Subject's location. Per the FID investigation, the distance between the Subject and officers' vehicle when they stopped was approximately 20 feet. In response, the Subject turned and ran south past the officers' vehicle. According to Officer A, he/she used parked vehicles as cover while pursuing the Subject. When the Subject fell in the parking lot, Officers used park vehicles as cover before safely approaching and apprehending him.

Other Resources – After the OIS, Officer B attempted to summon additional resources by broadcasting an officer help call. Despite the partial broadcast, several units responded to the scene. Officers A and B waited for the units to arrive before approaching the Subject and safely apprehending him.

The BOPC considered that the UOFRB noted that Officers A and B did not request an air unit before the OIS. Based on the nature of the call, the UOFRB would have preferred that the officers had requested an air unit before arriving at the scene. The UOFRB opined that an air unit could have helped the officers locate and contain the Subject.

Lines of Communication – During their response to the location, Officer A read the comments of the call to Officer B and updated him/her on the suspect's description. Officer A noted that the suspect matched the Subject's description and communicated his/her observations to Officer B. To detain the Subject, Officer A directed him to stop. The Subject ignored the command and fled. The Subject's subsequent actions limited the officers' ability to establish a line of communication with him before the OIS. After the OIS, the officers communicated with each other, agreeing to wait for additional units before approaching the Subject. When additional units arrived, the officers communicated a plan to apprehend the Subject without the need for additional force.

The BOPC considered that the UOFRB noted that Officer A believed that he/she advised Officer B of his/her observing a handgun on the Subject while exiting their vehicle. Per the FID investigation, this alleged advisement did not occur. While the UOFRB would have preferred that Officer A had communicated his/her observations to Officer B, it is not clear whether the advisement would have altered the circumstances leading up to the OIS.

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

Debriefing Point No. 1-- Approaching an Armed Suspect

Officer A and B arrived at the scene and attempted to locate the Subject. Observing the Subject on the sidewalk, Officer B conducted a U-turn and drove north toward the Subject. The officers estimated that the Subject was approximately 40 feet in front of them at the time of their observation and closed the distance. According to both officers, they intended to detain the Subject for an ADW investigation. Hearing Officer A directing the Subject and the unidentified male to stop, Officer B stopped the police vehicle in the roadway approximately 20 feet south of the Subject. When instructed to stop, the Subject quickly turned his body to the left, grabbed his front waistband with his right hand, and ran south on the sidewalk past the police vehicle. Officer A immediately exited the vehicle holding his/her pistol and ran south in the roadway toward the Subject's direction. According to Officer A, as he/she ran after Subject, he/she observed him remove a handgun from his front waistband. Officer A continued to pursue the Subject after the Subject pointed the handgun at

him/her, as Officer A wanted to make sure that the Subject “didn't get away” and so that he/she could be in a position to establish a perimeter. Within four seconds of getting out of the police vehicle to contact the Subject, Officer A became involved in the OIS.

After the OIS, Officers A and B continued to pursue the Subject, paralleling his route of travel and using cars in the parking lot as cover. The Subject soon collapsed in the parking lot and the officers set up containment. Recognizing the Subject needed medical attention, Officer A coordinated an arrest team, designated himself/herself as the designated cover officer (DCO), approached, and took the Subject into custody to render medical aid.

The BOPC noted that the UOFRB assessed the tactics employed by Officers A and B. As it pertains to the officers' decision to approach the Subject before the OIS, the UOFRB noted that when Officers A and B located the Subject, Officer B turned their police vehicle around and drove toward the Subject. The UOFRB noted that when Officer A told the Subject to stop, Officer B stopped the police vehicle approximately 20 feet from the Subject. The Subject then turned and fled past the officers' vehicle. While the position of the officers' vehicle was not ideal, the UOFRB opined that the Subject's actions dictated the officers' response and their tactics were not a deviation from Department-approved training.

Regarding Officer A's decision to pursue the Subject when he fled, the UOFRB was split. The UOFRB Majority noted that during his/her interview with FID, Officer A explained that his/her decision to chase the Subject was not to foot pursue, but rather to position himself/herself in a place to establish containment. The Majority also noted Officer A's positioning as he/she ran in the roadway while pursuing the Subject. The Majority opined that as he/she did so, Officer A had the benefit of cover from several parked vehicles between him/her and the Subject. The Majority also noted that the OIS occurred within four seconds of Officer A getting out of the police vehicle to contact the Subject. During that time, Officer B had placed the vehicle in park and removed the keys from the ignition before running toward his/her partner's location. The OIS occurred just as Officer B reached the rear passenger side of the police vehicle. As such, the Majority opined that before the OIS, the officers did not have time to broadcast a foot pursuit and/or choose to enter containment mode. The Majority also opined that despite Officer B momentarily losing sight of Officer A as he/she retrieved his/her keys, Officer B was only a few yards from Officer A at the time of the OIS and was in a position to render aid to him/her should it be necessary. Based on its review of the circumstances, the Majority determined that Officers A and B's actions were consistent with pursuing a Subject in containment mode, and thus, not a deviation from Department-approved tactical training.

The UOFRB Minority disagreed with the Majority opinion. The Minority also noted Officer A's statement to FID. However, the Minority opined that Officer A's actions did not reflect his/her stated intentions. Rather they demonstrated that he/she was in apprehension mode. The Minority noted that when Officer A initially exited his/her

patrol vehicle, he/she immediately began running southbound in the street in foot pursuit of Subject, who was approximately 20 to 25 feet away from him/her. Despite the Subject pointing a handgun at him/her, Officer A continued to pursue him, running past two parked vehicles instead of seeking cover. The Minority opined that this unnecessarily exposed Officer A to the Subject. The Minority also noted that at no point during the foot pursuit did Officer A slow his/her pace or stop to take a position of cover behind a parked vehicle, which would have allowed him/her to contain the Subject. On the contrary, Officer A ran with his/her service pistol in hand as he/she pursued the Subject at full stride and began to close the distance, further exposing himself/herself to the Subject. The Minority also noted that no one broadcast the foot pursuit, and the Minority opined that Officer A was separated from Officer B. The Minority recognizes that there may be occasions when pursuing an armed Subject in apprehension mode is justifiable; however, based on the totality of the circumstances in this case, the Minority determined that Officer A's actions were a substantial deviation, without justification, from Department tactical training.

As it pertains to Officers A and B's decision to approach the Subject to apprehend him and render medical aid, the UOFRB noted that the officers did so in a safe and controlled manner with sufficient resources and an organized team. While the UOFRB would have preferred that the officers had requested a ballistic shield first, they opined that the benefit of the shield in this situation did not outweigh the need to render aid and that its absence did not unnecessarily compromise the officers' safety. The UOFRB also would have preferred that Officer A had relinquished the role of DCO; however, he/she still effectively directed and coordinated the arrest team while maintaining the role.

The BOPC noted that the Chief of Police had assessed Officer A's foot pursuit of the Subject and concluded that he/she did not have enough time to formally initiate containment. In the four seconds between getting out of his/her police vehicle and the OIS, Officer A chased the Subject in a parallel path, using the parked vehicles as cover and allowing some distance between himself/herself and the Subject. Officer A maintained distance after the OIS by continuing to parallel the Subject and using vehicles in the parking lot for cover. The Chief agreed with the UOFRB Majority that Officer A's foot pursuit tactics did not substantially deviate from Department-approved tactical training.

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

During the review of this incident, the following additional debriefing topics were noted:

Command and Control

Officer A was the senior officer at the scene. After the OIS, he/she took command and control of the incident by redeploying resources to his/her position for better cover. Officer A directed Officer C to request a rescue ambulance (RA) and Officer A assumed the role of DCO. Officer A coordinated efforts to establish an arrest team and less-lethal force officer. Recognizing that the Subject was in medical distress, Officer A prioritized apprehending him and rendering aid.

At 0904:46 hours, Sergeant A arrived at the scene and declared himself/herself as the incident commander (IC). Sergeant A directed officers to set up crime scene tape, identified Officers A and B as the involved employees, separated them from each other, and obtained their public safety statements (PSSs). With an outstanding suspect (the heavysset male) potentially still in the vicinity, Sergeant A coordinated the efforts of responding officers and the air unit. Sergeant A also directed the establishment of a command post.

As it pertains to command and control, the overall actions of Officer A and Sergeant A were consistent with Department supervisory training.

Tactical Debrief

- In conducting an objective assessment of this incident, the BOPC determined that Officers A and B's actions were not a deviation from Department-approved tactical training.

Each tactical incident 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.

B. Drawing/Exhibiting

Officer A

As the police vehicle turned north to follow the Subject, Officer A opened his/her door and unholstered his/her service pistol. Officer A indicated that he/she unholstered his/her pistol because of the nature of the radio call and his/her belief that being seated in the police vehicle left the officers vulnerable should the Subject shoot at them. Officer A believed that the situation could escalate to an OIS.

Officer B

Officer B was running south near the rear passenger side of his/her vehicle when the OIS occurred. Officer B believed that either the Subject or his/her partner had fired their pistol. In response, Officer B unholstered his/her service pistol and ran to his/her partner's location.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their service pistols. The UOFRB noted that the officers responded to an ADW call of a suspect armed with a gun. Locating the Subject, Officer A observed him looking back toward the officers as they turned around to follow him. Believing that he/she and his/her partner were in a vulnerable position, Officer A unholstered his/her service pistol. Hearing the subsequent gunshot, Officer B believed that it was attributable to either his/her partner or the Subject. Based on the totality of the circumstances, the UOFRB opined that it would have been reasonable for both officers to believe that they may have to use lethal force when they unholstered their service pistols.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe that there was a substantial risk that the situation may escalate to the point where lethal force may be justified. Therefore, the BOPC found Officers A and B's drawing/exhibiting to be In Policy.

A. Lethal Use of Force

Officer A – Semi-automatic pistol, one round in a southeasterly direction from approximately 22 to 3 feet.

Background – Officer A's background included a commercial building and vehicles in the parking lot. According to Officer A, as he/she ran after the Subject, he/she observed him remove a handgun from his front waistband with his right hand. Officer A continued to run after the Subject, shouting, "Stop, stop!" According to Officer A, the Subject turned his body to the right, raised his right elbow, and pointed the barrel of the handgun in his/her direction. Due to his/her background, Officer A did not discharge his/her service pistol. According to Officer A, as the Subject continued to run, the Subject began to raise his right arm to shoulder level in the same manner as when he pointed the handgun. To prevent the Subject from pointing the handgun at him/her again and shooting, Officer A discharged one round at the Subject as the Subject approached the shopping center's parking lot.

The BOPC noted that the UOFRB assessed Officer A's lethal use of force. The UOFRB Majority noted that according to Officer A, he/she observed the Subject turn his body to the right, raise his right elbow, and point the handgun in his/her direction. According to Officer A, as he/she continued to follow the Subject, he/she observed him raise his right shoulder/elbow consistent with when he pointed the handgun at Officer A. Although the actions as described by Officer A were not captured on BWV, the Majority opined that there was nothing to refute his/her observations, and there was no reason to doubt his/her account. In forming that opinion, the Majority considered that the Subject chose to draw the firearm from his waistband rather than simply running away, he made no attempt to discard the firearm, and his actions were intermittently obscured from the camera's view. The Majority also considered the Subject's position at the time of the OIS and attributed it to lag time. As such, the Majority opined that Officer A's response

to the perceived imminent lethal threat by the Subject was objectively reasonable given the totality of the circumstances.

The UOFRB Minority disagreed with the Majority opinion. The Minority noted Officer A's observations but disagreed with his/her assessment of the Subject's actions at the time of the OIS. The Minority noted that although Officer A's BWV captured the Subject's actions immediately before the OIS, they opined that the footage does not support Officer A's recollection of the events. The Minority opined that the video appears to depict the Subject running in a full sprint away from Officer A. The Subject does not appear to look back toward Officer A nor move his body or firearm in his/her direction. Although the Subject does appear to raise his right elbow immediately before the OIS, the Minority opined that the motion was consistent with the arm's natural swing while running. Additionally, when the Subject's elbow lifted, it also appeared that his arm was bent at a 90-degree angle, causing the muzzle to be pointed down and away from Officer A. While the Minority understood that this was a stressful and rapidly unfolding incident, they opined that the Subject did not pose an imminent lethal threat when Officer A discharged his/her service pistol.

In terms of Officer A's background, the UOFRB noted that at the time of the OIS, it consisted of a commercial building and parked vehicles, one of which was a tractor-trailer. The UOFRB also noted that when Officer A observed the Subject point the gun at him/her, he/she believed that his/her background consisted of a restaurant, laundromat, and liquor store. Although the BWV footage does not depict the Subject pointing his gun, the UOFRB opined that when Officer A observed this action, his/her background would have been the shopping center's solid exterior wall. The UOFRB attributed Officer A's perception of his/her background to the dynamic nature of the incident.

The BOPC considered that during the Chief's assessment of Officer A's lethal use of force, the Chief noted the discrepancy between his/her perception and the available video evidence. Although Officer A perceived that the Subject was raising his arm in a manner consistent with him preparing to point the gun at him/her, the video does not depict such movement. The Chief acknowledged that by not discarding his gun, the Subject posed a significant danger to officers and raised concerns as to his willingness to use it against them. However, the evidence does not support Officer A's perception that the Subject posed an imminent threat of death or serious bodily injury at the time he/she utilized lethal force.

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 not believe that the lethal use of force was proportional, objectively reasonable, and necessary. Therefore, the BOPC found Officer A's lethal use of force to be Out of Policy.