

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

**IN-CUSTODY DEATH – 020-23**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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77 <sup>TH</sup> Street	5/12/23		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	8 years, 9 months
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**Reason for Police Contact**

Los Angeles Police Department (LAPD) uniformed patrol officers assigned to Newton Division initiated a traffic stop of a vehicle after the driver failed to stop at the limit line of a crosswalk in violation of California Vehicle Code Section (CVC) 21453 (a). The driver (Subject) was ultimately ordered to exit the vehicle, and he armed himself with a pistol. A brief struggle ensued between the Subject and an officer, during which time the Subject fired one round from his pistol, striking himself in the neck.

The Subject was taken into custody and transported by a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) to a nearby hospital where he was pronounced dead.

A 9-millimeter (9mm) semiautomatic pistol was located at the scene. Neither officer was injured during the incident.

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 40 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 (Chief); 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 2, 2024.

### **Incident Summary**

On May 12, 2023, at approximately 2300 hours, patrol Officers A (driver) and B (passenger) were in their black and white police vehicle stopped at a red phase traffic signal. They were positioned in the left-hand turn lane of eastbound traffic, waiting to make a northbound turn.

The officers observed an eastbound sports utility vehicle (SUV) failing to stop at the limit line at the west side of the intersection and travelling into the crosswalk before stopping. Both officers reported that the windows of the vehicle were heavily tinted, obstructing their view of the interior of the car. Officer A believed that the tint could have impaired the driver's visibility from within the vehicle, making it harder to see during the hours of darkness.

According to Officer B, he/she attempted to illuminate the passenger compartment of the vehicle with his/her flashlight to gain the Subject's attention but received no response. Even with the use of his/her flashlight, Officer B was unable to see inside the Subject's vehicle due to the window tint.

Officer B expressed a concern for public safety based on his/her knowledge of the area. Officer B indicated that the intersection was often occupied by bicycle and pedestrian traffic as well as curbside vendors.

Officer B recalled that once the light turned green, the Subject conducted a right turn to go southbound. Officer B communicated with his/her partner to stop the vehicle for the violations.

According to Officers A and B, they communicated their observations of the traffic violation with one another. Officer A then negotiated a southbound turn to conduct a traffic stop on the Subject's vehicle. According to Officer A, the Subject proceeded at a normal rate of speed in the number one lane of traffic, then abruptly merged into the number two lane and slowed the vehicle.

The officers' police vehicle was equipped with digital in-car video (DICV). The DICV was activated at the onset of the traffic stop and captured the incident, including a portion of the Subject's route of travel during the camera-buffering period. The DICV footage began at approximately 2301:31 hours as the vehicle traveled south.

Unless otherwise noted, the following sequence of events was derived from a review of the DICV and body-worn video (BWV) footage as well as the recorded radio frequency, Mobile Digital Computer (MDC) transmissions, and statements from both officers & civilian witnesses.

At approximately 2301:31 hours, after making the right turn, the officers closed the distance on the Subject's vehicle. Their DICV footage depicted the vehicle traveling south in the number one lane with the left-hand turn indicator flashing momentarily. As

the officers neared the SUV, the Subject immediately activated the vehicle's right-hand turn indicator and applied his brakes, while simultaneously veering from the number one to the number two lane of traffic. The vehicle suddenly slowed and then appeared to resume its initial speed.

According to Officer A, he/she believed the driver's actions to be erratic and indicative of someone who was possibly intoxicated.

Officer B attempted to conduct a want and warrant check of the vehicle's license plate number via their MDC. According to the officers, they were unable to identify the state from which the license plate was issued due to limited illumination, the plate's color, the type of scripted printing, and the reflective surface. Officer A momentarily utilized his/her high-beam headlights to better illuminate the license plate. As they continued south, Officer B confirmed the license plate state and completed the query.

At approximately 2302:08 hours, Officer B verified that no wants or warrants were associated with the vehicle and conveyed that information to Officer A. According to Officer A, he/she advised Officer B that he/she intended to conduct a traffic stop on the Subject's vehicle.

At approximately 2302:26 hours, the Subject reached an intersection and came to a stop at a red phase tri-light.

At 2302:28 hours, Officer B transmitted their Code Six (on scene to investigate) location via their MDC.

Officer A activated his/her forward-facing red light as they came to a stop behind the Subject's vehicle. Officer A offset their police vehicle to the left, which overlapped into the number one lane of southbound traffic. According to Officer A, he/she parked in this manner due to the limited space available between their vehicle and parked cars along the west curb. Officer A wanted to provide Officer B with adequate space to exit their police vehicle.

The officers exited their vehicle and approached each side of the vehicle, illuminating the passenger compartment with their handheld flashlights to verify that there were no additional occupants. Officer A approached the driver's side of the vehicle, while Officer B approached the passenger side.

As captured on BWV, as Officer B reached the rear passenger door, the Subject rolled down the front passenger window. The Subject looked over his right shoulder in Officer B's direction, while holding a cellular phone in his right hand. According to Officer B, he/she smelled the odor of burnt marijuana emitting from the vehicle as he/she approached the passenger side. Officer B also noted that the Subject appeared to be nervous and was trying to avoid making eye contact. According to Officer B, he/she directed the Subject to lower the driver's side window, where Officer A was standing.

Officer B believed that he/she activated his/her BWV device before approaching the Subject's vehicle. Shortly after approaching the vehicle, Officer B realized that his/her

BWV camera was not on and immediately activated it. Due to the late activation, Officer B's initial interaction with the Subject occurred during the buffering period and had no audio.

Although Officer B directed the Subject to roll down the front driver's side window, the Subject rolled down the rear driver's side window.

As the Subject was in the process of rolling down the rear driver's side window, Officer A tapped on the driver's window with his/her flashlight. Officer A greeted the Subject by asking, "Hey, how you doing Sir?" Officer A then instructed the Subject to roll all of his windows down and to turn off the engine. As captured on BWV, the Subject rolled down the driver's side window and looked in Officer A's direction. As he did so, Officer A held his/her flashlight in his/her right hand and illuminated the interior of the vehicle.

According to Officer A, he/she immediately smelled the odor of marijuana and noted that the Subject appeared to be nervous. Officer A stated that he/she could smell the odor of marijuana emitting from the vehicle. Officer A observed that the Subject's eyes were watery and asked if he was crying. Officer A stated that the Subject appeared to be extremely nervous, and he/she could see that his eyes were dilated. Officer A stated that the Subject seemed a bit paranoid and that these are all signs of someone being under the influence.

Officer A placed his/her left hand on the driver's side door and asked the Subject, "Are you okay? What's wrong? Are you crying?" According to Officer A, he/she asked those questions to draw attention to the Subject's watery eyes. The Subject responded that he had just applied eye drops and retrieved a bottle of eye drops from the center console area of the vehicle. The Subject held the bottle in his left hand, then raised both hands in front of his body, displaying the bottle to Officer A.

Officer A proceeded to identify himself/herself as a police officer and explained that the reason for the traffic stop was due to the Subject's failure to stop at the crosswalk. As Officer A communicated with the Subject, the Subject raised both of his hands in front of his body. The Subject informed Officer A that he was unaware of committing the violation and explained that he was not from the area. Officer A asked the Subject for his identification and inquired about where he was from, to which the Subject claimed to be from out of state.

Officer A repeated his/her request for identification, at which time the Subject continued to raise both hands in front of his body and replied, "I'm about to get it. I'm sorry. What I do?" The Subject then asked Officer A for permission to retrieve his identification. Officer A replied, "Yeah, go ahead. I'm asking you to." The Subject then began searching through the vehicle's center console and dashboard compartment, that was located to the left of the steering wheel.

As the Subject was rummaging through his vehicle, Officer A asked if the car was registered to him. The Subject informed Officer A that the vehicle was registered in his wife's name. The Subject then produced an identification card and presented it to Officer A, claiming that it was his wife's identification. Officer A advised the Subject, "I

need to see your ID, partner.” The Subject raised both hands in front of his body and stated, “I’m getting it...I’m sorry sir.”

As the Subject searched the dashboard compartment for his identification, Officer A directed his/her flashlight toward the driver’s door panel and looked into the vehicle to ensure that there were no weapons easily accessible to him. According to Officer A, he/she observed a black package located near the interior driver’s-side door handle. One end of the package was clear which provided Officer A a view of its contents, which resembled marijuana.

Based on his/her observation, combined with the Subject’s behavior and inability to produce identification, Officer A formed the opinion that further investigation for Driving Under the Influence (DUI) was warranted. Officer A informed the Subject that he/she was going to verify his information and instructed the Subject to exit the vehicle.

According to Officer B, as he/she monitored Officer A’s interaction with the Subject from the passenger side of the vehicle, he/she noted that the Subject continued to behave nervously. Officer B’s suspicions were enhanced when he/she overheard the Subject claim to be from a city that was inconsistent with the vehicle’s license plate. Officer B also believed that the Subject may be under the influence of an intoxicant based on his/her observations and training. Officer B explained that he/she finished a class two weeks prior for impaired driving. During the class, he/she learned about drugs and individuals who are under the influence. Officer B stated that as soon as he/she smelled the marijuana and observed the Subject with eye drops, he/she formed the opinion that the Subject might be under the influence of marijuana.

At approximately 2303:35 hours, Officer A reached through the open driver’s side window with his/her left hand and opened the door, using the interior door handle. As he/she did so, the Subject unbuckled his seatbelt with his right hand. Officer A asked the Subject, “Just a little bit of weed, that’s it?” to which the Subject replied, “Yes sir.” The Subject placed miscellaneous paperwork into the dashboard compartment, then raised his hands with his palms facing forward at shoulder level.

According to Officer B, he/she heard Officer A reference the presence of marijuana in the door and then direct the Subject to exit the vehicle. Officer B believed that Officer A verbalized the presence of the marijuana in order to communicate his/her observations with him/her and ensure that he/she was aware of it.

Officer A directed the Subject to step out of the vehicle a second time. The Subject lowered both hands and grabbed a cellular telephone from his lap with his left hand and the charging cord with his right hand, before unplugging it.

The Subject then quickly moved his right hand downward toward his right leg, between his thigh and the center console, out of the view of Officer A’s BWV camera. Simultaneously, the Subject dropped the cellular telephone, which landed on the gearshift. With his right hand remaining on his right side, the Subject placed his left foot onto the pavement, leaned forward, and began to exit the vehicle.

According to Officer B, as the Subject began to exit the vehicle, he/she observed him place his right hand by his right thigh. When the Subject pivoted his body to the left in the driver's seat, Officer B observed the Subject grab the grip of a pistol that was concealed underneath his right leg. According to Officer B, the muzzle of the pistol was facing in a southerly direction, toward the front of the vehicle.

Officer B stated that as soon as Officer A opened the door, the Subject removed his seat belt. Officer B then watched as the Subject leaned forward, reached down with his right hand, and armed himself with a pistol that he had under his leg.

According to Officer B, as the Subject began to step out of the vehicle, he lifted the pistol to chest level with the muzzle pointed upward toward Officer A, in what Officer B described as a close-contact position. Officer B recalled that as soon as he/she observed the Subject arm himself, Officer B started yelling, "Gun, gun, gun." Officer B stated that the Subject raised the pistol in a close-contact position and thought that his/her partner was going to get shot in the face.

At 2303:44 hours, as captured on BWV, Officer B yelled, "Hey, gun, gun, gun, gun, gun, gun, gun!" At this time, the view from Officer B's BWV camera was partially obstructed by the passenger door frame. Therefore, his/her BWV did not capture the moment that the Subject armed himself.

As Officer B attempted to alert his/her partner that the Subject was armed, he/she unholstered his/her pistol with his/her right hand.

Officer B began running south, then east around the front of the Subject's vehicle. According to Officer B, that route allowed him/her to watch both the Subject and Officer A. Officer B feared that if he/she ran to the rear of the Subject's vehicle, he/she would lose sight of the Subject and his/her partner. As Officer B negotiated his/her way around the vehicle, he/she held his/her pistol in his/her right hand and yelled, "Gun!" According to Officer B, he/she began reaching for his/her radio with his/her left hand, intending to broadcast a "help" call.

Simultaneously, as the Subject began exiting the vehicle, he turned his upper body away from Officer A who was standing adjacent to the open car door. Unaware that the Subject was armed with a pistol, Officer A decided to go "hands on" with the Subject. According to Officer A, he/she believed that the Subject was under the influence, so he/she did not want him to stumble into the middle of the street. Officer A stated that he/she wanted to control the Subject's hands to ensure that he did not have any weapons on him prior to him/her conducting a driving-under-the-influence (DUI) investigation.

As the Subject was in the process of exiting the vehicle, Officer A applied a firm grip on Subject's left forearm using his/her left hand and grasped the back of the Subject's left upper arm with his/her right hand. As Officer A "went hands on" with the Subject, he/she heard Officer B yell something; but when interviewed by FID, Officer A told investigators that he/she could not recall what was said. However, as captured on BWV, upon reporting the incident to Sergeant A at approximately 2308:55 hours,

Officer A reported that Officer B yelled, "Gun," as the Subject was stepping out of the vehicle.

As captured on DICV, the Subject appeared to lower his left shoulder, lean into Officer A's body, and lunge toward the street. As he did so, Officer A pivoted his/her back toward the vehicle. Officer A repositioned his/her left hand to the Subject's left bicep and his/her right hand onto the Subject's right shoulder area. As the Subject lunged forward, Officer A transitioned his/her right arm to the right side of the Subject's midsection, appearing to prevent the Subject from moving forward.

According to Officer A, he/she attempted to grab the Subject's right forearm using his/her right hand; however, the Subject pulled away and he/she was unable to do so. Based on the Subject's actions, Officer A believed that the Subject was attempting to flee on foot. As the Subject continued to pull away from him/her, Officer A wrapped his/her arms around the Subject's back in a "bear hug" to maintain control of his hands and prevent him from fleeing.

At approximately 2303:45 hours, as Officer A wrapped his/her arms around the Subject from behind, his/her BWV camera was covered by the Subject's back. Approximately two seconds later, Officer A's BWV camera dislodged from his/her uniform during the struggle, and the camera fell onto the ground facing upward.

At approximately 2304:35 hours, Officer A retrieved the camera from the ground and mounted it to his/her uniform after the Subject was taken into custody.

At approximately 2303:46 hours, DICV captured the Subject appear to lunge forward in an easterly direction as Officer A struggled to maintain control of him. The DICV also captured a pistol in the Subject's right hand.

As captured by DICV, in a continuous motion, the Subject lifted his head upward, raised the pistol directly below his chin with his right hand, and fired a single shot. As a result, the Subject sustained a single gunshot wound to his neck. Officer A's struggle with the Subject lasted approximately three seconds from the time the Subject began exiting the vehicle to the moment the gunshot was heard on DICV footage.

According to Officer A, at that point, he/she had not observed any weapons on the Subject or in his vehicle. Officer A stated that as he/she tried to grab him and he was trying to pull away, he/she heard a gunshot go off. Officer A stated that he/she did not know if the Subject was trying to shoot him/her.

As captured on DICV, Officer A released his/her grip on the Subject and pushed him forward in an easterly direction using both hands. Officer A stated that he/she did not know if the Subject was trying to shoot him/her, so he/she attempted to create space by pushing him away to create distance and then he fell forward.

As a result, the Subject fell forward onto the pavement and landed in the left-hand turn lane of southbound traffic. The Subject briefly rolled onto his back, then rolled onto his stomach face down on the pavement. The Subject's arms were extended in front of him

and his head was facing in an easterly direction. At some point during the fall, the Subject dropped his pistol which landed on the pavement under his right arm.

In fear for his safety, Officer A unholstered his/her pistol and held it in his/her right hand in a low-ready position with his/her finger along the frame. Officer A pointed the muzzle in an easterly direction toward the Subject. According to Officer A, he/she heard a gunshot and was in fear for his/her life. During a subsequent interview, Officer A informed investigators that he/she was unaware that the Subject was armed with a pistol until he/she heard the gunshot.

As Officer B ran around the vehicle, he/she heard one gunshot and observed the Subject falling to the ground. Officer B pointed the muzzle of his/her pistol in the Subject's direction and transitioned his/her pistol into a two-handed grip with his/her finger along the frame. According to Officer B, the Subject's right hand was on top of the pistol, but he was not gripping it. Officer B repeatedly commanded the Subject not to move or reach for the pistol.

Officer B approached the Subject, believing that redeploying back to the vehicle for cover would provide the Subject with an opportunity to arm himself again. Due to his/her proximity to the Subject, Officer B believed that he/she could better control the situation by closing the distance and removing the pistol from the Subject's reach, thereby de-escalating the situation and avoiding the potential for an officer-involved shooting (OIS).

Additionally, Officer B noted that the Subject was injured and appeared to be bleeding from his neck area. Officer B felt that redeploying and waiting for additional resources to arrive would cause a delay in providing necessary medical aid. Officer B continued to direct the Subject not to move or reach for the gun. Officer B then approached the Subject's left side, stepped over the Subject's body with his/her right leg, and kicked his pistol in an easterly direction away from him.

Officer B then positioned himself/herself on the Subject's right side. Simultaneously, Officer A approached the Subject and took a position on the Subject's left side. At approximately 2303:56 hours, while holding his/her pistol at a low-ready position in his/her right hand, Officer A retrieved his/her police radio with his/her left hand, broadcast, "Officer needs help, shots fired," and provided the location over the radio frequency.

Meanwhile, Officer B continued to verbalize with the Subject and instructed him to not reach for the gun. Officer B holstered his/her pistol and verified that Officer A was providing him/her with cover by asking, "You got him?" When Officer A replied, "I got him," Officer B knelt on his/her left knee beside the Subject.

Officer B placed his/her left hand on the Subject's upper back, grabbed the Subject's right wrist using his/her right hand, and pulled the Subject's right arm behind his back. Officer B then removed his/her left hand from the Subject's back and repositioned it to the Subject's right wrist. After doing so, Officer B removed his/her right hand from the Subject's wrist and retrieved his/her handcuffs.



At approximately 2304:10 hours, as Officer B was handcuffing the Subject, Officer A broadcast to CD that all officers were accounted for. Officer B advised units to respond southbound and requested a rescue ambulance (RA) for a male, conscious and breathing, suffering from a gunshot wound.

Officer B applied the handcuffs to the Subject's right wrist, then grabbed the Subject's left arm using his/her left hand. Officer B pulled the Subject's left arm behind his back and completed the handcuffing process.

At approximately 2304:29 hours, Communications Division (CD) broadcast the help call over the radio frequency, erroneously identifying the location. A correction was broadcast approximately nine seconds later, updating the correct location.

At 2304:35 hours, Officer A retrieved his/her BWV camera from the pavement and affixed it to his/her chest. Officer A then broadcast that the Subject was in custody and verified with CD that an RA was responding. CD confirmed that an RA was en route and inquired if it was clear for the LAFD to enter the scene. Officer A advised CD that the scene was clear for the RA to enter.

After taking the Subject into custody, Officer B immediately turned him onto his right side and began a cursory search of his waistband and pockets for additional weapons. Officer B did not locate any additional weapons and/or contraband on the Subject's person. Officer B then rolled the Subject onto his left side and into the recovery position. Officer B grasped the Subject's right elbow/bicep area with his/her right hand and ensured that he remained in the recovery position as they waited for additional resources to arrive.

According to Officers A and B, the Subject continued to move his body. As Officer B held him on his left side, he/she repeatedly asked the Subject where he was "hit" and appeared to examine the Subject's body for injuries. According to Officer B, he/she was cognizant that the Subject was bleeding from the neck area but was also concerned about additional injuries, including potential exit wounds. Officer B stated that he/she placed his/her hand on the Subject's chest area. According to Officer B, as he/she had his/her hand on his chest, he/she could feel his chest rising. Officer B monitored his chest and kept him in a recovery position so that he could get oxygen.

At approximately 2306 hours, assisting patrol officers arrived on scene. Officer A obtained protective gloves and observed an injury underneath the Subject's chin which was bleeding. Officer A stated that he/she did not observe the Subject's injury until after the arrival of the additional unit due to the Subject's position.

Officer A donned the protective gloves and approached the Subject. Officer A placed his/her right hand on the back of the Subject's neck and his/her left hand under the Subject's chin to support him. Officer A put upward pressure with his/her left hand to his chin and could feel the wound on his chin.

As Officer A rendered aid to the Subject, the Subject continued trying to roll onto his stomach. Officers A and B advised the Subject to remain on his side. Officer A

repeatedly encouraged the Subject to breathe and reassured him that an ambulance was on the way.

At approximately 2308:09 hours, Officer C relieved Officer A and began rendering aid to the Subject. Officer C placed his/her right hand under the Subject's chin and immediately began applying direct pressure to the wound. Officer C placed his/her left hand under the Subject's head to keep his head still and support his neck. Officer C directed the Subject to stop moving and relax in response to the Subject kicking his legs and moving his upper body. Simultaneously, other officers assumed Officer B's position and held the Subject on his left side. Officer C continued rendering aid to the Subject until the RA arrived at the scene.

Throughout the time that officers rendered aid to the Subject, BWV footage depicted him making repeated attempts to turn onto his stomach, kicking his legs, moving his hands, and appearing to have labored breathing.

At approximately 2308:25 hours, Sergeant A arrived at the scene, contacted Officers A and B, and inquired if an OIS had occurred. As captured on BWV, Officer A informed Sergeant A that an OIS had not occurred and briefly described what had transpired. Officer A informed Sergeant A that the Subject's gunshot wound was self-inflicted.

Sergeant A briefed other assisting sergeants about what had transpired, then directed them to separate and monitor Officers A and B.

At approximately 2312 hours, LAFD RA Firefighter Paramedics arrived at the scene. The Subject was transported to a nearby hospital for further treatment. Officer C accompanied the Subject to the hospital, followed by other officers.

According to Officer C, LAFD personnel requested that he/she continue to apply direct pressure to the wound on the Subject's neck. Officer C continued to do so throughout the transport to the hospital while the LAFD personnel provided the Subject with additional medical treatment. The Subject did not make any statements during the transportation.

While en route to the hospital, the Subject went into cardiac arrest. Upon their arrival at the hospital, the Subject was transferred to a hospital bed; however, he did not respond to medical treatment and was pronounced dead at 2333 hours by Doctor A.

At approximately 2336 hours, the Department Operations Center (DOC) was notified of the Categorical Use of Force (CUOF).

## **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	No	Yes	Yes	Yes	Yes

Officer B did not activate his/her BWV camera until after approaching the front passenger window of the Subject's vehicle and speaking with the Subject. According to Officer B, he/she believed that he/she had activated his/her camera as he/she exited the police vehicle. Officer B subsequently realized that the camera was not recording and immediately activated it.

In reviewing the footage captured during the cameras buffering period, as Officer B exited his/her vehicle, Officer B did appear to press the front of his/her camera, attempting to activate it.

A device audit of Officer B's camera and comparative review of the BWV footage time stamp indicated that one press of the camera's "event button" occurred as Officer B stepped from his/her vehicle. The audit also indicated that the two presses necessary to activate the camera occurred approximately 18 seconds later when Officer B realized that it was not recording.

## **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each 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. For every incident, 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 incident, the BOPC made the following findings:

### **A. Tactics**

The BOPC determined Officers A and B's tactics to warrant a finding of Administrative Disapproval.

### **B. Drawing and Exhibiting**

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

### **C. Non-Lethal Use of Force**

The BOPC determined Officer A and B's non-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:

## **Policy on the Use of Force<sup>1</sup>**

**Use of De-Escalation Techniques:** *It is the policy of this Department that, whenever feasible, 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 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.*

**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, 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 an officer at the time assistance is needed.*

**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:** *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.*

**Factors Used to Determine Objective Reasonableness:** *Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines 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;*

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<sup>1</sup> LAPD Manual, Volume 1, Section 556.10.

- *The level of threat or resistance presented by the suspect;*
- *Whether the suspect was posing an immediate threat to 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.*

**Use of Force – Non-Deadly:** *It is the policy of this 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.*

**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.*

## **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, Redeployment and/or Containment** – Officers A and B had previously worked together ten times and had numerous conversations regarding tactics, traffic stops, and contact/cover roles. Included in these conversations was how they handle people exiting a vehicle on traffic stops. Officer B stated that he/she and Officer A debrief after every traffic stop. After observing the Subject commit the CVC violations, the officers planned to initiate a traffic stop, which included ensuring that there were no wants or warrants attached to the vehicle. Officers A and B's plan during traffic stops has been to approach the vehicle at the same time.

After observing the Subject grab a pistol as he was exiting the vehicle, Officer B ran around the front of the Subject's vehicle, which allowed him/her to watch both the Subject and Officer A.

After hearing a gunshot and observing the Subject fall to the ground with his right hand on the pistol, Officer B approached the Subject, believing that redeploying back to the vehicle for cover would provide the Subject with an opportunity to arm himself again. Due to his/her proximity to the Subject, Officer B believed that he/she could better control the situation by closing the distance and removing the pistol from the Subject's reach, thereby de-escalating the situation and avoiding the potential for an OIS. In addition, Officer B believed that redeploying and waiting for additional resources to arrive would cause a delay in providing necessary medical aid.

After hearing a gunshot, Officer A released his/her grip on the Subject and pushed the Subject forward with both his/her hands to "create space."

**Assessment** – At the onset of the traffic stop, Officer A offset their police vehicle to the left behind the Subject's vehicle, which caused their vehicle to overlap into the number one lane of southbound traffic. Officer A parked in this manner due to the limited space available between their vehicle and the parked cars along the west curb, and he/she wanted to provide Officer B with adequate space to exit their police vehicle. The officers exited and verified that there were no additional occupants by illuminating the vehicle with their hand-held flashlights. Upon contacting the Subject, Officers A and B smelled the odor of marijuana emitting from the vehicle and noted that the Subject appeared nervous.

Officer A's interaction with and observations of the Subject, combined with his/her knowledge of a DUI taskforce being conducted in the area, led Officer A to believe that further investigation for DUI was warranted. Officer B, who had recently completed an Impaired Driving Apprehension Program (IDAP), also assessed the Subject's interaction with his/her partner. Based on his/her training and observations of the Subject, Officer B came to a similar assessment that the Subject may have been under the influence.

In order to verify the Subject's information and conduct a DUI investigation, Officer A instructed the Subject to exit the vehicle. As the Subject exited the vehicle, Officer A applied firm grips to the Subject's arms, believing that the Subject was intoxicated and not wanting him to stumble into the street. When the Subject began pivoting his body and pulling away, Officer A assessed that the Subject was attempting to flee on foot. In response, Officer A wrapped his/her arms around the Subject in a "bear hug" to maintain control of his hands and prevent him from fleeing.

According to Officer B, when he/she observed the Subject grab the grip of a pistol and lift it to chest level with the muzzle pointed upward, he/she assessed that the Subject was going to shoot Officer A. Simultaneously, Officer B unholstered his/her pistol believing the situation would escalate to lethal force.

After the Subject was handcuffed, Officer B held the Subject on his left side and assessed him for injuries. Officer B was cognizant that the Subject was bleeding from the neck but was also concerned about potential exit wounds.

**Time** – During the initial contact on the traffic stop, Officer A identified himself/herself, informed the Subject of the reason for the stop, and conversed with the Subject, including asking for his registration and identification and inquiring where he resided. This provided time for both officers to continue their visual inspection of the vehicle's interior and assess the Subject.

Approximately three seconds lapsed from the time the Subject began exiting the vehicle and struggling with Officer A, and a gunshot is heard on the DICV recording.

**Other Resources** – Officer B conducted a want and warrant check of the vehicle's license plate number via their mobile digital computer (MDC). After the Subject fell to the ground, Officer A broadcast a request for assistance. As Officer B was handcuffing the Subject, Officer A broadcast that all officers were accounted for. Officer A broadcast a direction of travel for responding units and requested an RA for the Subject, and he/she advised CD that the scene was clear for the RA to enter.

**Lines of Communication** – Officers A and B communicated their observations of the traffic violation with one another. Officer B verified that no wants or warrants were associated with the vehicle and conveyed that information to Officer A. Officer B transmitted their Code Six (on scene) location via their MDC.

Noting the Subject's watery eyes and in an effort to alert his/her partner, Officer A asked the Subject if he had been crying. Officer A verbalized the presence of marijuana in the car-door compartment, which Officer B heard.

Officer B observed the Subject grab a pistol from underneath his right leg and as he began to exit the vehicle. The Subject lifted the pistol to chest level and Officer B yelled, "Hey, gun, gun, gun, gun, gun, gun, gun," to alert Officer A.

During the Force Investigation Division (FID) interview, Officer A stated that he/she heard Officer B yell as the Subject exited the vehicle but did not recall what he/she



yelled. However, Officer A can be heard on BWV telling Sergeant A that Officer B yelled, "gun" as the Subject was stepping out of the vehicle. The Use of Force Review Board (UOFRB) assessed the two different statements by Officer A and concluded that they were consistent.

Officer B continued to verbalize with the Subject and instructed him to not reach for the gun. Officer B holstered his/her pistol and verified that Officer A was providing him/her with cover by asking, "You got him?" When Officer A replied, "I got him," Officer B handcuffed the Subject.

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

### **Debriefing Point No. 1 - Tactical Vehicle Deployment**

Officers A and B conducted their traffic stop in a location where the Subject was not able to pull over completely to the side of the road, so he instead stopped in the number two southbound lane. Officer A offset his/her police vehicle, which caused it to overlap into the number one southbound lane. Both Officer A and B exited their police vehicle and approached the Subject's vehicle simultaneously.

During the traffic stop, Officer A stood in front of and leaned into the driver's side door while speaking with the Subject. When Officer A ordered the Subject out of the vehicle, he/she reached in with his/her left hand and opened the door using the interior door handle. While the Subject was exiting the vehicle, Officer A remained in front of the driver's side door.

The UOFRB noted that upon stopping the Subject's vehicle, Officer A deployed the police vehicle at a reasonable distance, offsetting the vehicle enough to provide a safe lane for both officers to approach the vehicle. Although the UOFRB would have preferred that they had selected a location where the Subject could completely pull over to the curb, they also noted the possibility of the Subject being impaired, and their directing the Subject to reposition the vehicle may have been dangerous to the public.

The UOFRB noted that Officers A and B approached the Subject's vehicle at the same time. Although the UOFRB would have preferred that Officer B had cleared the vehicle first and then signaled to Officer A that it was clear, the UOFRB determined that based on the officers' history of working together and previous discussion of tactics, Officers A and B's actions were not a substantial deviation.

The UOFRB assessed Officer A's position in front of the Subject's driver's side window during their interaction, as well as Officer A reaching in to open the door. Officer A expressed that he/she was concerned that the Subject was impaired and could fall into traffic if he/she asked him to exit the vehicle. For that reason, he/she positioned himself/herself in front of the door and subsequently opened it to prevent the Subject from stumbling into the street. The UOFRB determined that Officer A was conducting a DUI investigation and found that Officer A's actions were not a substantial deviation.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were not a substantial deviation from Department-approved tactical training.

## **Debriefing Point No. 2 - Approaching Armed Suspects/Tactical Planning**

After the Subject shot himself and was lying on the street, Officers A and B approached the Subject without the benefit of cover or additional personnel. The pistol that the Subject had dropped was still within his reach; however, Officer B was concerned that redeploying would provide an opportunity for the Subject to rearm himself. Officer B was also concerned that redeploying and waiting for resources would delay their ability to render medical aid to the Subject.

Officer A maintained lethal cover on the Subject and broadcast a "help" call, as Officer B gave the Subject commands and subsequently handcuffed him.

The UOFRB assessed Officers A and B's decision and tactics used to apprehend the Subject. The UOFRB noted that after Officer B observed the Subject grab a pistol, Officer B utilized the Subject's vehicle as cover as he/she redeployed to the front, which allowed him/her to watch the Subject and his/her partner. Rather than surrender the ground that they had gained and lose visual contact, Officer B gave clear commands to the Subject and acted swiftly to take him into custody. The UOFRB determined that the Subject was at a disadvantage and based on the officers' intent to prevent the Subject from rearming himself and render aid to him, Officers A and B's actions were not a substantial deviation.

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

## **Additional Tactical Debrief Topics**

**Preservation of Evidence** – Officer B kicked the Subject's pistol in an easterly direction away from him. Absent exigent circumstances, kicking firearms is discouraged due to the possibility of an unintentional discharge.

**Personal Protective Equipment** – Officer B did not don protective gloves before taking the Subject into custody. It was revealed that neither Officer A nor Officer B were equipped with personal protective equipment on their person.

**Handcuffing Techniques** – Prior to taking the Subject into custody, Officer B stepped over the Subject's body and kicked the pistol away before moving to the Subject's right side and handcuffing him.

**Protocols Subsequent to an ICD** – Without FID approval and prior to their examination, Officer A, while being monitored by Sergeant B, removed a round from his/her pistol's magazine to record the brand of ammunition for an information check

list required by FID. Officer A placed the round inside his/her locker and did not place it back into the magazine.

## **Command and Control**

Upon Sergeant A's arrival at scene, he/she contacted Officers A & B and was informed that no OIS had occurred. Sergeant A instructed the officers to not talk about the incident. Sergeant A directed Sergeants B & C to separate & monitor Officers A & B and obtain Public Safety Statements (PSSs). Sergeants B and C subsequently obtained independent PSSs from Officers A and B at Newton Community Police Station (CPS).

At 2311 hours, Sergeant A broadcast that he/she was the Incident Commander (IC). At 2330 hours, Lieutenant A arrived at scene and relieved Sergeant A as the IC. At 2336 hours, the DOC was notified of the in-custody death (ICD).

The BOPC determined that the overall actions of Sergeants A, B, C, and Lieutenant A were consistent with Department training.

## **Tactical Debrief**

In conducting an objective assessment of this incident, the UOFRB and Chief determined, and the BOPC concurred, 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 incident, areas were identified where improvements could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that occurred during this incident. Therefore, the Chief directed Officers A & B to attend a Tactical Debrief and that the identified topics be discussed.

## **Drawing/Exhibiting**

### **Officer A**

After hearing the gunshot, Officer A released his/her grip on the Subject and pushed him forward. Not knowing if the Subject was shooting at him/her, Officer A was in fear for his/her life and unholstered his/her pistol, believing that the situation could rise to where lethal force could be justified.

### **Officer B**

According to Officer B, he/she observed the Subject arm himself with a pistol and lift it to chest level with the muzzle pointed upward toward Officer A. Officer B unholstered his/her pistol believing the Subject would shoot Officer A.

The UOFRB assessed Officers A and B's drawing and exhibiting of their pistols. Regarding Officer A's unholstering of his/her pistol, after hearing the gunshot, he/she

believed that the Subject was armed. The UOFRB and Chief opined that it was reasonable for Officer A to believe that the situation may escalate to lethal force.

Regarding Officer B's unholstering of his/her pistol, the UOFRB and Chief noted that he/she observed the Subject arming himself with a pistol and raising it towards his/her partner. The UOFRB and Chief opined that it was reasonable for Officer B to believe that the situation may escalate to lethal force.

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 where lethal force may be justified. Therefore, the BOPC determined Officers A and B's drawing/exhibiting to be In Policy.

### **Non-Lethal Use of Force**

#### **Officer A – Physical Force & Firm Grips; Officer B – Physical Force**

**Officer A** – According to the FID investigation, as the Subject was exiting his vehicle, he armed himself with a pistol that was underneath his right leg. Unaware that the Subject was armed, Officer A applied firm grips to the Subject's left forearm and upper left arm. The Subject appeared to lower his left shoulder, lean into Officer A's body, and lunge toward the street. Believing that the Subject was trying to flee on foot, Officer A repositioned his/her hands and applied firm grips to the Subject's left bicep and right shoulder area. As the Subject lunged forward, Officer A transitioned his/her right arm to the right side of the Subject's midsection and then wrapped his/her arms around the Subject in a "bear hug" to maintain control of the Subject's hands and prevent his escape.

According to the FID investigation, the Subject raised the pistol directly below his chin with his right hand and fired a single shot. In response, Officer A pushed the Subject with both hands in an easterly direction. The Subject was then taken into custody without further incident.

**Officer B** – After Officer B handcuffed and searched the Subject, he/she placed him in the recovery position on his left side. According to Officer B, and supported by BWV, the Subject made repeated attempts to turn onto his stomach, kicked his legs, and moved his hands. Officer B used physical force to the right torso side of the Subject's body to maintain him in the recovery position.

The UOFRB conducted a review and analysis of the investigation and circumstances of

the incident in determining the reasonableness of the non-lethal force used by Officers A and B.

As it pertains to Officer A, the UOFRB noted that he/she used physical force and firm grips to control the Subject's movements. The UOFRB noted that the physical force and firm grips were effective in preventing the Subject from escaping. The UOFRB noted that once Officer A heard a gunshot, Officer A utilized a two-handed push to create distance. The UOFRB opined that the force applied by Officer A was objectively reasonable and proportional.

As it pertains to Officer B, the UOFRB noted that he/she used physical force to maintain the Subject in the recovery position. Based on the Subject's level of resistance and need for medical aid, the UOFRB opined that the force applied by Officer B was objectively reasonable and proportional.

Based on the totality of circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B would believe that the force used was objectively reasonable and proportional. Therefore, the BOPC determined Officers A and B's non-lethal use of force to be In Policy.

#### **Medical Treatment/Rendering Aid**

At 2304:10 hours, Officer A requested an RA while Officer B handcuffed the Subject and placed him on his left side into the recovery position. At 2306:00 hours, Officers C and D arrived at scene and provided protective gloves to Officer A, who applied direct pressure to the Subject's wound. At 2308:09 hours, Officer E relieved Officer A and continued applying pressure to the Subject's wound. Approximately four minutes later, an LAFD RA arrived at scene and transported the Subject to a nearby hospital for treatment. At 2333:00 hours, the Subject succumbed to his injuries and was pronounced dead by Doctor A.

#### **Requirement to Intercede**

Based on the review of this incident, the requirement to intercede was not applicable.