

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

OFFICER-INVOLVED SHOOTING – 022-23

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
77 th	05/26/23		

Officer(s) Involved in Use of Force	Length of Service
Officer A	7 years

Reason for Police Contact

Gang Enforcement Detail (GED) officers observed two males at the southeast corner of an intersection. One of the males appeared to become nervous and made furtive movements in his waistband area. The officers, believing that the male was attempting to conceal contraband or a pistol, exited their police vehicle to investigate.

Sometime later, another male (the Subject) fled on foot and the officers foot pursued him. As the Subject crossed north on the street, both officers observed a pistol in his right hand. The Subject ran east until he collided with a residential trash bin causing him to fall onto the street. The Subject, while lying on his back, pointed his pistol toward one of the officers, resulting in an officer-involved shooting (OIS). The Subject was not struck by gunfire and his pistol was recovered nearby.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Male: 45 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 9, 2024.

Incident Summary

On Friday, May 26, 2023, GED Officers A and B were assigned to conduct crime suppression.

Officer B was the driver of a marked black-and-white "hybrid" (i.e., no light on top) police vehicle equipped with ballistic door panels and digital in-car video (DICV).

At approximately 1620 hours, Officers A and B were traveling east when they observed a large group in the middle of the street, drinking and smoking marijuana in public view. In addition, several vehicles were double parked and blocking traffic. The officers stopped and exited their police vehicle to contact the group.

Officers A and B noticed that one of the males in the group appeared nervous and grabbed onto an object resembling a pistol in his front waistband. He began to walk away from the officers as they ordered him to stop. He refused to comply with the officers' command to stop and fled on foot, resulting in a foot pursuit by the officers.

The male was eventually apprehended and a 9-millimeter pistol was recovered.

After booking the male, the officers returned to the field, where they assisted other officers with their investigations. According to Officer B, at approximately 2150 hours, they returned to the area of the community center where the repass was being held. Officer B observed the gate to the community center open and accessible to the public. Officer B drove the police vehicle into the driveway and observed a crowd in the parking lot. The officers exited their vehicle and Officer B observed an unknown male run into the building but determined that he was unarmed and no enforcement was needed.

As the officers were walking back to their police vehicle, another male (the Subject) approached from behind, began using profanities toward them, and tried to incite the crowd by yelling that they could not be there. Officer B turned to face the Subject and told him not to walk so close to him/her. Citizens in the crowd intervened and tried to calm the Subject down.

The officers entered their police vehicle and circled the area in an effort to continue monitoring the repass from a distance.

As the officers were driving north, Officer B observed the Subject at the northeast corner. Officer B estimated that he/she was approximately 20 feet south of the Subject when he/she observed him walking south toward the southeast corner.

Officer B observed the Subject continuously looking over his right shoulder. Officer B believed that the Subject was attempting to avoid contact with them as he continuously tracked them.

Once the Subject reached the southeast corner, Officer B observed him turn his body to face west, bend his knees, bend forward at the waist, and clutch something in his front waistband with his right hand.

Simultaneously, Officer A observed two males standing on the southeast corner, one of them being the Subject. According to Officer A, the Subject saw them and became nervous. The Subject bladed his body, knelt down, and began making furtive movements toward his waistband. Initially he used both hands, then just his right hand. Based on Officer A's training and experience, he/she opined that the Subject was manipulating a pistol in an effort to conceal it.

Officers A and B exited their police vehicle to investigate the Subject's actions, both using their flashlights to illuminate him. The Subject then turned around and began running east on the south sidewalk.

As the Subject ran eastbound, Officer A foot pursued and ordered him to stop. The Subject ran past three parked vehicles before he ran onto the street. He continued running east and then to the north side. Officer B also observed the Subject with a pistol as he (the Subject) crossed the street.

According to Officer A, he/she yelled out to his/her partner, "*He has a gun. He has a gun.*" Officer A advised during his/her FID interview, "*Um, we were in foot pursuit, but in containment mode just tracking the Subject's movements trying to keep my distance, um, just in case he did turn and, um try to do something to us.*"

At 2207:23 hours, as the Subject began running, Officer B broadcast the information over the radio.

Officer B advised FID investigators that his/her back-up request served as their initial Code-Six (on scene to investigate) location. Officer B broadcast Code Six once the Subject was proned out on the street pavement.

Once the Subject reached the north sidewalk, he continued running east. Officer A continued pursuing the Subject in containment mode and ordering him to stop.

Officer B also continued in foot pursuit but remained behind his/her partner on the sidewalk.

According to Officer A, once the Subject reached mid-block, he attempted to run south across the street. Officer A observed the Subject collide with a residential trash bin, causing him to fall down to the middle of the street. As observed on Officer A's BWV, he/she (Officer A) ran up to and took cover at the right-rear quarter panel of a red vehicle parked in the driveway apron of a residence.

According to Officer A, he/she lost sight of the Subject as he/she (Officer A) ran past a tree. When he/she regained sight of the Subject, the Subject was laying on his back, tilting his head up from the pavement, looking toward Officer A. The Subject was reaching toward his waistband and then extended what Officer A believed was his right arm with the pistol pointed toward him/her (Officer A).

According to Officer A, he/she came up from a low-ready pistol-holding position, dropped his/her flashlight, acquired a two-handed grip, and fired one round; but the Subject was not struck. After assistance arrived, the Subject was taken into custody

without incident, and his pistol was recovered from the street curb.

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	No	Yes	Yes	N/A	N/A
Officer B	No	Yes	Yes	N/A	N/A

Los Angeles Board of Police Commissioners' (BOPC) Findings

The BOPC reviews each categorical use of force (CUOF) incident based upon the totality of the circumstances, namely all of the facts, evidence, statements, and all other pertinent material relating to the particular incident. 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 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 In Policy.

Basis for Findings

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

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of

circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the subject was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers, or suspects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the 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 officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

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

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

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

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be fired at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle

shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be fired from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

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

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

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

Definitions

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

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

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

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

deadly force; and d) whether a warning was feasible and/or given.

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

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

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

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

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

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

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

A. Tactics

Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

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

Tactical de-escalation does not require that an officer compromise his/her 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 and Assessment – At the time of the OIS, Officers A and B had been assigned to GED for six and ten months, respectively. In addition to training as a unit, they had been partners for approximately two deployment periods (56 days). During that time, they routinely discussed tactics, including roles of contact and cover, foot pursuit concepts, communication; and they debriefed tactical incidents. According to Officer B, on the day of this OIS, GED officers received roll call training on foot pursuit concepts, which included tactics for apprehension versus containment mode.

When Officer B observed the Subject on the corner, he/she assessed his behavior and believed that he was attempting to avoid contact with the officers. After observing the Subject turn his body, bend his knees, and clutch something in his waistband, Officer B assessed and believed that the Subject was armed with a pistol and attempting to avoid being arrested. When Officer A observed the Subject, he/she assessed the Subject's behavior and believed that he was acting nervously and manipulating a pistol after observing him blade his body and make furtive movements toward his waistband.

When the Subject fled on foot, the officers observed the Subject holding the pistol and they pursued him in containment mode. After the Subject fell to the street pavement and pointed his pistol at Officer A, Officer A assessed and perceived that the Subject posed an imminent threat, so Officer A fired his/her pistol. After firing a single round, Officer A heard a metallic sound sliding north toward a parked car and assessed that the Subject had thrown his pistol as he/she no longer observed a pistol in the Subject's hand.

Time and Redeployment/ Containment – Immediately after Officer A exited his/her police vehicle to contact the Subject, the Subject fled and produced a pistol. Officers A and B briefly foot pursued the Subject before he collided with a trash bin causing him to fall. According to Officer A, the Subject was laying on his back as he pointed the pistol at him. Officer A was not afforded the benefit of time to employ further de-

escalation efforts as he/she had to respond to an imminent threat of the Subject pointing a pistol at him/her.

During the foot pursuit, Officer B broadcast relevant information so that additional resources could respond to assist with containment. Within seconds of the foot pursuit initiation, the Subject fell and the OIS occurred. Following the OIS, Officers A and B re-deployed to triangulate on the Subject as they awaited additional resources.

Other Resources – As the Subject began running, Officer B broadcast a back-up request for “a man with a gun.” After hearing a gunshot, Officer B broadcast, “Officer needs help, shots fired.” Officers A and B then waited for additional units to arrive prior to approaching the Subject to take him into custody.

Lines of Communication – After Officers A and B formed the belief that the Subject was armed with a pistol, they communicated their observations with each other. According to Officer A, he/she directed the Subject to stop as he fled from officers. Upon observing the pistol in the Subject’s hand, Officer A advised Officer B of the pistol. Officer B continued to give commands to the Subject advising him not to move as they waited for the arrival of additional resources.

During the review of the incident, the following debriefing points were noted:

Debriefing Point No. 1: Code Six

As Officers A and B exited their police vehicle to investigate the Subject’s actions, the Subject immediately turned and fled on foot. According to FID investigators, approximately four seconds after Officer B exited the police vehicle, he/she began broadcasting with his/her handheld radio. Officer B broadcast the foot pursuit, their location, and the Subject’s description. During his/her interview with FID, Officer B stated that his/her broadcast served as his/her Code Six initiation since adding to his/her broadcast that he/she was Code Six followed by the foot pursuit information “would take too much time.”

The UOFRB was unanimous in its overall recommendation for a Tactical Debrief for Officers A and B; however, a minority opinion was rendered during the UOFRB’s discussion on the topic of Code Six.

The UOFRB assessed Officers A and B’s tactics as it pertained to broadcasting Code Six. The UOFRB Majority considered the time available to the officers to broadcast their Code Six location prior to the initiation of the foot pursuit and the fluid nature of the situation caused by the Subject’s actions. The Majority noted that upon the officers turning the corner and exiting the police vehicle, the Subject immediately fled on foot. Officer B quickly broadcast the foot pursuit with the pertinent information for responding units. The Majority determined that the foot pursuit broadcast served as the officers’ Code Six broadcast and there was no substantial deviation.

The UOFRB Minority considered the Majority's assessment of the officers not broadcasting their Code Six location prior to exiting their police vehicle. The Minority recognized that this was a fluid situation and Officer B broadcast the foot pursuit immediately. The Minority noted that in an ideal situation, it would have been preferred for the officers to broadcast that they were Code Six prior to exiting the police vehicle but recognized they were unable to do so due to the fluidity of the situation. The Minority determined that the lack of broadcasting Code Six was a substantial deviation, with justification, from Department-approved tactics.

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.

Debriefing Point No. 2: Foot Pursuit Concepts

Officers A and B believed that the Subject was armed with a pistol. As the Subject fled on foot, Officers A and B foot pursued him and observed him produce a pistol from his waistband. Officer B immediately broadcast a back-up request and that they were in foot pursuit of a man with a pistol along with the direction of travel. According to both officers, they pursued the Subject in containment mode and maintained a distance of at least "two properties" and tracked the Subject's movement. During the foot pursuit, the officers intermittently had trees, bushes, and vehicles (both parked and in the roadway) to use as cover and concealment as they trailed the Subject. Approximately 13 seconds elapsed from when Officer B requested a back up to the OIS.

The UOFRB assessed Officers A and B's tactics during their foot pursuit. The UOFRB noted that during the foot pursuit, Officers A and B maintained distance from the Subject and did not attempt to overtake or apprehend him, even after he fell. The UOFRB further noted that at the time of the OIS, the distance between the Subject and Officer A was approximately 16 feet. The UOFRB perceived that the diminished distance was a result of the Subject colliding with a trash bin, causing him to fall. The UOFRB concluded that this further supported the fact that the officers were in containment mode as their distance from the Subject during the foot pursuit was greater than it was at the time of the OIS. The UOFRB determined that Officers A and B were in containment mode during the foot pursuit and did not deviate from Department-approved tactics.

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.

Debriefing Point No. 3: Cover and Concealment

At the time of the OIS, Officer A used the trunk of a vehicle that was parked in the apron of a driveway as cover. After the OIS and after the Subject threw his pistol, Officers A and B redeployed adjacent to cover to triangulate on the Subject as they waited for additional resources. Approximately two minutes passed until the arrival of additional resources and Officer A handcuffed the Subject.

The UOFRB was unanimous in its overall recommendation for a Tactical Debrief for Officers A and B; however, a minority opinion was rendered during the UOFRB's discussion on the topic of cover.

The UOFRB assessed Officers A and B's use of cover after the OIS. The UOFRB Majority considered that although the Subject was armed with a pistol at the time of the OIS, he threw it after the OIS occurred. The Majority opined that the Subject was no longer armed when Officers A and B triangulated on him as they waited for additional resources. The Majority noted that an officer's pistol could be used as a form of cover, which the subject matter expert from Training Division confirmed as a taught tactic. The Majority determined that Officers A and B did not deviate from Department-approved tactical training in their use of cover.

The UOFRB Minority considered the Majority's assessment on the use of cover. The Minority recognized that Officers A and B saw that the Subject was no longer armed, his hands were visible, and their redeployment effectively removed the Subject's avenues of escape. However, the Minority opined that because the Subject was previously armed and posed an imminent threat, it would have been preferred that the officers had maintained a position of cover. The Minority opined that the officers' decision to redeploy from cover and triangulate on the Subject, who they believed was no longer armed, was a substantial deviation, with justification, in comparison to past practices and standards of training.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were a substantial deviation, with justification, from Department-approved tactical training and practice. When Officers A and B redeployed from cover, the Subject's actions and body language communicated that he was not likely armed. The officers' decision to redeploy and triangulate adapted to this observation; however, Officers A and B should have remained behind cover until additional resources arrived.

Additional Tactical Debriefing Points

Securing Police Vehicle – When Officers A and B went in foot pursuit of the Subject, Officer B exited the police vehicle and left the keys in the ignition, with both driver and passenger-side windows down.

Profanity – After the OIS, Officers A and B used profanity at the Subject while ordering him to stay on the ground (street pavement) and not move.

Search of Arrestees – Officer A did not appear to physically search the Subject after handcuffing him. According to FID investigators, BWV supports that the Subject's waistband was visibly clear of weapons and A appeared to visually inspect the Subject's waistband. Approximately 12 minutes after the Subject's arrest, he was searched by another officer who recovered an empty holster from his right pants pocket.

Running with Pistol – During the foot pursuit, Officer A ran with his/her pistol in his/her hand as he/she pursued the Subject.

Maintaining Control of Equipment – In the moments prior to the OIS, Officer A intentionally dropped his/her flashlight to acquire a two-handed grip of his/her pistol. The flashlight fell to the ground, and he/she recovered it after the situation stabilized.

Passing Unsearched Suspects – When the officers observed the Subject, he was standing with another male, dressed in gang attire. The officers illuminated that male, along with the Subject, before attempting to make contact. As the foot pursuit materialized, Officer A came within a few feet of the Subject as he/she ran past him, leaving the Subject to Officer A's back.

Command and Control

- Sergeant A was the first supervisor to arrive on scene after the OIS. Sergeant A provided supervisory oversight as Officer A handcuffed the Subject. Approximately 30 seconds later, Sergeant B arrived on scene and declared him/herself as the incident commander (IC). Sergeant B directed officers to keep the crowd back and directed an officer to remain standing over the Subject's discarded pistol. Sergeant B identified the involved officers and directed Sergeant A to separate, monitor, and obtain a public safety statement (PSS) from Officer A. Sergeant B directed another unit to monitor the Subject as he/she continued to establish a crime scene. Sergeant B separated & monitored Officer B and obtained a PSS from him/her.

Prior to obtaining Officer B's PSS, Sergeant B relinquished his/her duties as IC to Sergeant C. Sergeant C provided command and control over the tactical elements of the incident as there was still a hostile crowd. When he/she was able, Sergeant C established a command post (CP).

Sergeant A transported Officer A to the Community Police Station (CPS) and continued to monitor him/her. Sergeant B transported Officer B to the CPS and continued to monitor him/her.

The UOFRB assessed Sergeant A's actions related to his/her supervisory oversight and command and control. The UOFRB noted that Sergeant A was the first supervisor on scene after the OIS, followed shortly by Sergeant B. Sergeant B identified the involved officers and initiated the protocols subsequent to a categorical use of force.

The BOPC determined that the overall actions of Sergeant A as a supervisor during a critical incident, specifically related to OIS protocol, could be improved. The BOPC determined that the overall actions of Sergeants B and C were consistent with Department supervisory training.

B. Drawing/Exhibiting

- **Officer A**

Officer A observed the Subject make furtive movements around his waistband consistent with someone attempting to conceal or manipulate a pistol. When the Subject fled from them, Officer A observed the Subject produce a pistol from his waistband with his right hand. Officer A unholstered his/her pistol because he/she believed that the situation could escalate to lethal use of force because the Subject was armed with a pistol.

- **Officer B – 1st occurrence**

After broadcasting the back-up request and running approximately five houses east, Officer B unholstered his/her pistol. Officer B carried his/her pistol in his/her right hand, pointed down, with his/her finger along the frame, as he/she ran behind his/her partner. Officer B observed that the Subject was armed and believed that the Subject could at any point turn around to shoot at him/her and his/her partner justifying lethal use of force.

- **Officer B – 2nd occurrence**

After taking the Subject into custody, a hostile group began to form, including a group of individuals near the officers. Officer B unholstered his/her pistol in the event that one of them was armed, resulting in circumstances which would justify lethal use of force.

The UOFRB assessed Officers A and B's drawing and exhibiting of their pistols. The UOFRB determined that Officer A had a reasonable belief that this circumstance could escalate to the point where lethal force would be justified. This belief was developed by Officer A's observation that the Subject was armed with a pistol as he fled from officers. The UOFRB noted that Officer B, observing the Subject to be armed, unholstered his/her pistol, believing that the Subject could shoot them or residents necessitating lethal use of force. The UOFRB opined that it was reasonable for Officer B to unholster his/her pistol based on his/her observations of the Subject being armed with a pistol.

The UOFRB assessed that when Officer B unholstered a second time after the OIS, a crowd was forming behind him/her. The UOFRB considered that the officers were in a gang neighborhood where earlier in the day they had arrested a juvenile who was in possession of a pistol and had just encountered another armed suspect resulting in an OIS. Additionally, there was a hostile crowd forming around them and the Subject's pistol had not been yet recovered. The UOFRB opined that it was reasonable to believe that the crowd posed a threat that may escalate to lethal use of 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 there

was a substantial risk the situation may escalate to the point where lethal force may be justified. Therefore, the BOPC found Officers A and B's drawing/exhibiting, all occurrences, to be In Policy.

Lethal Use of Force

- **Officer A** – Pistol, one round from approximately 16 feet in a downward, southeasterly direction.

Background – According to Officer A, his/her background was the asphalt street pavement due to him/her shooting at a downward angle. Officer A stated that there was nothing else behind the Subject.

During the foot pursuit, Officer A observed the Subject produce a pistol from his waistband. As the foot pursuit continued, the Subject collided into a trash bin placed at the curb, causing him to fall to the pavement in the middle of the street. According to Officer A, as he/she got closer to the Subject, he/she observed the Subject pointing a pistol at him/her. In fear for his/her life, Officer A fired one round from his/her pistol in the Subject's direction.

The UOFRB evaluated the circumstances and evidence related to the OIS. The UOFRB noted that Officer A observed the Subject running while armed with a pistol. The Subject collided with a trash bin, causing him to fall to the street pavement. As Officer A neared the Subject, he/she observed the Subject, still on the pavement, point a pistol at him/her. Officer A was in fear for his/her life and fired one round from his/her pistol. The UOFRB determined that the Subject's actions of pointing a pistol at Officer A posed an imminent threat of serious bodily injury or death and that the lethal use of force was objectively reasonable, proportional, and necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe that the lethal use of force was objectively reasonable, proportional, and necessary. Therefore, the BOPC found Officer A's lethal use of force to be In Policy.