

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

OFFICER-INVOLVED SHOOTING – 026-22

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

Wilshire 6/17/22

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

Officer A 15 years, 2 months
Officer B 5 years, 7 months

Reason for Police Contact

Officers responded to a radio call of an assault with a deadly weapon (ADW) suspect. When officers arrived at the intersection, they encountered the Subject, armed with a pistol. As the officers stopped their vehicle, the Subject removed the pistol from a bag he was carrying and fired at the officers, resulting in an officer-involved shooting (OIS). The Subject ran west into the middle of the street, stopped, turned, and fired at the officers again, resulting in a second OIS. The Subject was struck by gunfire and transported to a local hospital.

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

Subject: Male, 33 years of age.

Board of Police Commissioners' Review

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

The following incident was adjudicated by the BOPC on May 9, 2023.

Incident Summary

On Friday, June 17, 2022, at approximately 0910 hours, Witness A was walking east on the north sidewalk. Witness A saw the Subject wearing a blue sweater, carrying a white bag, and walking west on the north sidewalk toward him.

According to Witness A, the Subject removed a pistol from a bag and pointed it at construction workers that were across the street on the south side, but he believed that they did not notice the Subject pointing the pistol at them. Witness A watched the Subject cross the street to the south side and continue to walk east. Witness A further stated that he saw the Subject pointing the pistol at additional people as he walked down the street. Force Investigation Division (FID) investigators canvassed the area but did not locate any active construction sites or identify any victims.

At 0918 hours, Witness A called 911 and Communications Division (CD) Radio Telephone Operator (RTO) A answered the call. Witness A reported that the Subject was carrying a pistol (possibly a 9mm semi-automatic) and pointed it at construction workers, and Witness A provided the location. According to Witness A, he knew it was a real pistol by its appearance.

At 0918 hours, a radio call was generated. The Emergency Board Operator (EBO) assigned the call to Officers A and B.

Officers A and B had worked as partners on three occasions during the past two years. According to the officers, at the start of watch that day, they discussed tactics, contact/cover roles, and their lethal/less-lethal force roles for the day. At approximately 0924 hours, the officers activated their body-worn video (BWV) and responded Code Three (with their vehicle's emergency lights and siren activated) to the call.

As Witness A continued to follow the Subject, the Subject entered a business located on the southeast corner. Witness A told the RTO where the Subject was located, as he waited across the street, watching the entrance door of the business.

According to the officers' BWV, at 0926:02 hours, the RTO broadcast information that the Subject was now inside the business, and the RTO provided the business name and its location.

According to the officers' BWV, at 0926:50 hours, while responding to the call, Officer A read the comments of the call from the mobile data computer (MDC). The officers are heard discussing the Subject's description, that the pistol was being carried in a food bag, and that the Subject was inside the business.

The Subject was inside the business for approximately 2.5 minutes, where he received a cup of water from an employee. The Subject exited the location and walked east on the south sidewalk.

Witness A continued monitoring Subject as he walked east. The Subject walked to the southwest corner and Witness A walked to the northwest corner of the same intersection, where he continued to watch the Subject.

At 0930:30 hours, as Officer's A and B approached the intersection, the digital in-car video (DICV) captured the Subject standing on the southwest corner, holding a white bag.

According to the officers' BWV, at 0930:30 hours, Officer A stated, "I think that's going to be him," as he/she directed Officer B's attention to the Subject standing on the southwest corner. Officer A stated that as he/she approached the intersection, he/she saw the Subject standing by himself at the southwest corner, and he/she immediately recognized that it was an exact match of the description per the comments of the call.

According to the officers, they were responding to the reported location of the Subject when they encountered him at the intersection. Officer A stated that he/she observed the Subject locking his eyes with him/her and their police vehicle. Officer A stated that this was an indication that something was about to happen.

As the officers were approaching the intersection, Witness A told the RTO that the Subject was standing at the corner, on the other side of the intersection across from the officers.

Officer B turned off the vehicle's siren and drove southwest across the east traffic lanes to a position east of the crosswalk. According to Officer B, as he/she was in the middle of the intersection, he/she drove the vehicle straight toward the Subject so that he/she could prone him out. Officer B stated that this would also provide him/her and his/her partner with cover and allow them to use the ballistic panels of the car.

As Officer B maneuvered the vehicle into position, the RTO broadcast the Subject's updated location at the southwest corner.

Simultaneously, on Officer A's BWV at 0930:44 hours, he/she keyed the radio microphone, and the audible sound of the radio beeping can be heard.

According to Officer A, the RTO came up over the radio as he/she was trying to "go Code Six" (i.e., broadcast that they had arrived on scene) and provide information about the Subject. Officer A stated he/she was unable to broadcast a Code Six due to the RTO's actions. Officer A stated he/she did not utilize the MDC to go Code Six because, he/she did not want to glance away from the Subject due to safety reasons.

According to Officer B's BWV, at 0930:48 hours, he/she stated, "He's reaching into the bag!" As Officer B stopped the car in front of the Subject, he (the Subject) reached into the white bag with his right hand, stepped backward, removed a pistol, extended his right arm toward the officers, and fired the pistol in the officers' direction. The

investigation determined that the round fired by the Subject struck the concrete light pole directly in front of him, located on the southwest corner of the intersection.

According to Officer A, as he/she and his/her partner approached the corner where the Subject was located, the Subject fired at them. Witness A stated that the Subject fired three or four rounds at the officers and then turned around went into the street.

According to Witness B, who was standing at the northwest corner with Witness A, he did not see the Subject take the pistol out because he was looking at the police car. Witness B stated that by the time he turned back, the Subject had the pistol in his hand and fired at least twice before the officers had a chance to do or say anything.

The business at the southwest corner had a security camera video that captured the officer-involved shooting (OIS).

According to Officer B's BWV, at 0930:49 hours, he/she exited their vehicle, stood behind the open door, and unholstered his/her pistol. According to Officer B, he/she unholstered it because the comments of the call indicated that the Subject also had a pistol inside his bag. Officer B stated that when he/she observed the Subject reaching inside the bag, he/she knew that he (the Subject) was doing so to remove his pistol. As soon as the Subject took his pistol out, he immediately started firing it at him/her and his/her partner, so he/she unholstered his/her pistol.

Officer B held his/her pistol in a two-handed grip as he/she fired one shot, simultaneous to the Subject firing his shot. The shot was fired from approximately 35 feet. Officer B stated that the Subject continued shooting at him/her, so he/she returned fire. According to Officer B, his/her pistol sights were aligned on the center mass of the Subject, and he/she fired to stop the threat. Officer B stated that he/she fired in a southwest direction, and the background behind Subject was a business. BWV depicts Officer B crouch down behind the vehicle door.

Officer B stated that he/she took cover behind the vehicle door due to the Subject firing at him/her. Officer B stated that as the Subject continued to shoot at him/her and his/her partner, he/she felt that the Subject was not trying to escape because he was not running. Officer B felt that the Subject was intending to kill him/her and noted that the Subject was repositioning himself. Officer B stated that there were pedestrians walking on the sidewalk and a lot of vehicle traffic, so at any point the Subject could take a hostage or shoot an innocent person.

At 0930:51 hours, Officer B raised up and extended his/her pistol forward with a two-handed grip, between the open door and the A pillar of the vehicle. Officer B fired two rounds, from approximately 45 feet.

According to Officer B, the Subject was retreating on the sidewalk but still shooting at him/her. At this point, Officer B aligned his/her sights on the Subject again and fired twice. Officer B stated that he/she feared for his/her and his/her partner's safety.

Officer B stated that the background was an empty sidewalk area, business parking lot, and two other buildings.

According to the BWV, at 0930:51 hours, Officer A exited the vehicle, stood behind the open door, unholstered his/her pistol, and held it with a two-handed grip.

According to Officer A, as soon as he/she saw the Subject, he/she stepped out of the vehicle, and the Subject was already shooting at him/her. Officer A immediately unholstered his/her pistol, aligned his/her sights on the Subject's center body mass, and pulled the trigger. Officer A stated that when he/she fired, it was in immediate defense of his/her life and his/her partner's. Officer A told FID investigators that he/she believed that he/she fired two shots. A review of the BWV determined he/she fired one round from approximately 45 feet.

Officer A stated that the background behind the Subject was the empty sidewalk and large wall directly west of the business.

On Officer A's BWV, at 0930:55 hours, he/she broadcast a shots-fired call and provided the location & Subject's description.

The security videos from the businesses at the southwest and northwest corners, depict the Subject running northwest into the street behind the vehicles stopped in the east traffic lanes.

According to Officer B's BWV, at 0930:55 hours, Officer B holstered his/her pistol and called out to his/her partner, "Get in partner, get in," as he/she got back inside the vehicle. Officer A holstered his/her pistol and got back inside the vehicle.

According to Officer B, the Subject was seeking cover behind the vehicles and redeploying. As the Subject did this, Officers A and B had good distance, so Officer B holstered his/her weapon.

A business security video depicts Officer B drive the vehicle approximately ten feet west in the curb lane. Simultaneously, the Subject ran west on the sidewalk and turned north into the street, where he dropped the white bag and stopped running.

A business security video depicts the Subject turn toward the officers as he used both hands to manipulate the pistol. The Subject took three steps east, raised the pistol with his right arm fully extended forward, and pointed the pistol at the officers. During the crime scene investigation, investigators located a live 9mm pistol cartridge case on the street surface in the area where the Subject was depicted on the security video manipulating the pistol. The manufacturer's markings on the cartridge were identical to the live ammunition cartridges located in the magazine of the pistol which the Subject used to fire at the officers.

According to Officer A, the Subject fired three or four rounds at him/her and his/her

partner. The Subject then turned around and tried to go to the street. According to Officer A, the Subject turned around, did something with the pistol, and then fired two or three additional rounds.

According to Witness B, the officers fired back at the Subject. Witness B stated that the Subject moved off the sidewalk and into the middle of the street, but he was still facing the police officers. Witness B first heard the Subject fire a few more times, then heard a "clicking" noise and believed his pistol was empty, but then heard the Subject fire another round.

A business security video depicts the Subject lower the pistol, as he retrieved the bag from the ground and walked south into the east curb lane. The Subject used both hands to manipulate the pistol a second time. The Subject raised and fully extended his right arm, and he pointed the pistol east at the officers. The Subject manipulated the pistol again with both hands. For a third time, he raised the pistol with his arm fully extended and pointed it in the direction of the officers. During the crime scene investigation, FID investigators located a discharged cartridge casing on the street surface in the area where the Subject was depicted on the security video pointing the pistol in the direction of the officers.

According to Witness A, the Subject fired at the officers and then he pulled the pistol back, but Witness A did not believe that he had any more bullets. Witness A stated that the Subject turned around and did something with the pistol and then fired two or three more rounds.

According to Witness C, he heard gunfire and laid down on the ground behind a car in front of the business at the southwest corner. Witness C stated that he observed the Subject pointing his pistol at the officers. Witness C then heard "clicking" on the weapon and nothing was coming out. Witness C then heard the Subject yelling, "I'm going to shoot you" multiple times.

According to Officer B, he/she could see the Subject's head moving behind the stopped vehicles and he/she could hear the sound of gunshots. Officer B stated that, as he/she got inside his/her vehicle and started driving forward, the Subject emerged from his cover and came out into the open. Officer B thought that the Subject was not trying to escape but was intending to kill him/her and his/her partner.

On Officer B's BWV, at 0931:05 hours, he/she is heard yelling to Officer A, "He's getting out, he's getting out!" as he/she stopped the vehicle and opened the door. As Officer B crouched behind the open driver-side door, he/she unholstered his/her pistol, took a two-handed grip, and raised the pistol.

According to Officer A, initially he/she did not know where the Subject was at, but when he/she got back into their police vehicle, the Subject emerged from behind vehicles on the street.

Officer A exited their police vehicle, stood behind the vehicle door, and unholstered his/her pistol, pointing it toward the ground with his/her trigger finger along the frame. According to Officer A, he/she wasn't pointing the pistol at that second because the background of occupants in vehicles prevented him/her from having a clear shot. Officer A continued to watch where the Subject was running. Officer A further stated that at this point, the Subject was running at him/her while firing, similar to an ambush.

A business security video depicts the Subject lowering the pistol and running north to the east-facing left turn lane. The Subject raised the pistol with his right arm fully extended, pointing it in the direction of the officers. The Subject slowed his pace briefly while still pointing the pistol toward the officers.

The vehicles in the traffic lanes between Subject and the officers drove away from the area as the Subject continued his movement north in the center of the street with his arm raised, pointing the pistol at the officers.

According to Officer A, when he/she exited their vehicle again, he/she saw the Subject running northbound between vehicles with his pistol pointed towards him/her and he/she was hearing gunshots.

According to Officer A's BWV, at 0931:12 hours, he/she stood behind the open door of their vehicle, extended his/her arms through the open window frame, and fired five shots in approximately five seconds, in a northwest direction, from approximately 110 feet.

According to Officer A, he/she targeted the Subject's center mass, assessed as the shots were fired in a northwest direction, and saw that Subject did not fall to the ground. Officer A stated the background at the time he/she fired was an open parking lot, and he/she did not see any vehicles or pedestrians.

According to Witness D, she heard the sound of gunshots and saw the Subject shooting a pistol at the officers and moving around in the street. Witness D stated that she exited and crouched down beside her vehicle, and she heard what sounded like something hitting metal. Witness D then ran inside a nearby business.

According to Officer B's BWV, at 0931:17 hours, Officer B fired one round in a northwest direction from approximately 110 feet.

According to Officer B, the Subject was shooting at him/her and his/her partner and he/she did not have clear view at that point because the Subject was using vehicles as cover, so he/she decided not to fire. Once the Subject redeployed to where there were no vehicles and he was out in the open, Officer B returned fire. Officer B stated that there were no vehicles in the west traffic lanes and no pedestrians walking in the area, and he/she was not sure if there were any vehicles in the parking lot of a nearby business.

A business security video depicts the Subject lower the pistol and run northwest toward the shopping center at the northeast corner.

Officers A and B holstered their pistols, got back inside their vehicle, and drove west. At 0931:27 hours, Officer A broadcast their location and stated that the Subject was running north. The RTO repeated the "help call" and requested the response of an air unit (helicopter) to the incident.

Officers A and B pursued the Subject in containment mode. Officer B drove to an intersection, while Officer A broadcast the Subject's description and direction of travel, and he/she requested units to respond to form a perimeter.

According to Witness E, he heard gunshots, looked out his window, and saw the Subject holding a bag as he ran to a two-story duplex.

Officer B took a position of cover behind a vehicle parked along the east curb and he/she unholstered his/her pistol. According to Officer B, he/she monitored the front of the building and unholstered his/her pistol.

At approximately 0933:41 hours, an Air Support Division (ASD) air unit arrived overhead and directed responding officers to perimeter and containment positions. At 0934:52 hours, ASD requested a Rescue Ambulance (RA) to respond and stage in the area.

Containment was established with units positioned at several intersections. The air unit observed the Subject sitting in an alcove by the doorway of an apartment complex, hunched over with his head down.

Officer A retrieved ballistic helmets from the trunk of his/her vehicle for himself/herself and Officer B. Upon donning his/her helmet, Officer A unholstered his/her pistol and held it at a low-ready position as he/she held cover on the apartment complex. Officer took cover behind a parked vehicle and unholstered his/her pistol because he/she knew the Subject was in the area.

Sergeant A responded to the scene Code Three and activated his/her BWV. Upon arrival, Sergeant A broadcast that he/she was Code Six and declared himself/herself as the incident commander (IC). A command post (CP) was set up in the parking lot on the northeast corner.

Sergeant B responded to the location Code Three and activated his/her BWV camera. Sergeant B assumed the responsibility of tactical planning and deployment.

The following personnel responded to the help call and were involved in the tactics: Officers C, D, E, F, G, H, and I.

At 0940 hours, Sergeant A assigned officers to replace Officers A and B from their point position in front of the apartment complex. Officers A and B informed Sergeant A that they were involved in an OIS. The officers' BWV captured Sergeant A asking Officers A

and B public safety statement (PSS) questions in the presence of each other. The officers informed Sergeant A that they both had fired pistol rounds, that they did not know if the Subject had been struck by the rounds, and the location where the OIS occurred.

According to Sergeant A, he/she needed to get basic information as quickly as possible of what had occurred so that he/she could plan on whether he/she needed to be put in a contact team and whether the officers needed to be separated. Sergeant A stated that once he/she obtained the information, he/she determined that Officers A and B needed to be separated and monitored, and that there was an outstanding shooting suspect.

The air unit observed that the Subject placed the pistol on the ground as he sat on the porch. The air unit broadcast their observations to Sergeant B and advised him/her that blood was on the ground next to the Subject and he appeared to have been shot in the arm.

At 0953 hours, Sergeant B assembled an arrest team behind the cover of a vehicle and a police vehicle public address (PA) speaker was used to call the Subject out from the location, but he did not comply or respond to the commands.

According to Sergeant B, based on the situation, he/she did not believe that the incident met the criteria for a Metropolitan Division Special Weapons and Tactics (SWAT) unit response. Sergeant B stated that he/she did not know if the Subject was refusing to come out or if he was unable to comply due to being injured. Sergeant B further stated that he/she did not know if the Subject had a position of advantage because the Subject did not know where the officers were positioned. Sergeant B stated that the Subject did not have the pistol in his hand but was aware that a pistol was laying on the ground and that the Subject appeared injured. Based on this, Sergeant B did not believe that the Subject had a position of advantage.

At 0957 hours, the officers made a second attempt to call the Subject out. The Subject did not respond or comply with the officers' commands. Sergeant B assigned Officer D to utilize the ballistic shield and provide lethal cover with his/her pistol. Officer G was assigned the role of lethal cover with a police rifle (PR), Officer H was assigned to less-lethal cover with the 40mm Less Lethal Launcher (LLL), and Officers C and D were assigned to the arrest team.

At 1001 hours, the air unit observed the Subject roll onto his stomach and the pistol was on the ground behind him.

Sergeant B later told FID investigators that he/she made the decision to approach and take the suspect into custody because there was a "sense of urgency" due to the information that the Subject was injured, and there was an elderly female inside the location who was scared and had a medical condition. Sergeant B stated that the air unit told him/her that the Subject had rolled onto his stomach with the pistol behind his back, which created an "advantage" for the officers to approach.

Sergeant B made a tactical plan to approach and arrest. As the plan was initiated, Sergeant B broadcast an advisement to the IC that they were moving forward.

At 1003 hours, the arrest team approached to take the Subject into custody. Officer E retrieved the pistol from the ground and the Subject was handcuffed without further incident.

Officer G broadcast a Code Four (i.e., no additional officers needed) suspect in custody and requested an RA to respond to their location.

At 1035 hours, a Los Angeles City Fire Department (LAFD) RA arrived. The Subject was transported to a nearby hospital for treatment of a gunshot wound to the left forearm, and Officer I accompanied the Subject in the RA.

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
Sergeant A	Yes	Yes	Yes	Yes	Yes
Sergeant B	Yes	Yes	Yes	Yes	Yes
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' (BOPC) Findings

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

A. Tactics

The BOPC found Officers A, B, Sergeants 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 Officers A and B'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 suspect and enable

an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;

- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

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

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

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

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

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

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

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

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

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

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

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

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

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

Definitions

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

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

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

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

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

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

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

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;

- A wound requiring extensive suturing; and,
- Serious disfigurement.

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

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

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

A. Tactics

Tactical De-Escalation

Tactical De-Escalation Techniques

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

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

Planning and Assessment – This was Officers A and B’s fourth watch together as partners. At the beginning of their watch, they discussed various topics, including contact and cover roles, tactical de-escalation, and lethal and less-lethal force options. While responding to this incident, Officer A discussed the comments of the call with Officer B. Both during and after the OIS, Officer A assessed the need for additional resources.

Sergeant B arrived and assumed responsibility for tactical planning. Sergeant B used information from the air unit regarding the Subject’s location and condition to assess the situation. Sergeant B formed a tactical team that included a designated cover officer (DCO), less-lethal force officer, shield operator, and arrest team. Based upon his/her assessment of the situation, he/she created a plan to approach the Subject and take him into custody without further incident.

Time and Redeployment/Containment – As they entered the intersection, Officer B angled the police vehicle toward the Subject and stopped approximately 35 feet

from him. This allowed the officers to maintain distance and use their ballistic door panels as cover. However, the Subject's subsequent actions limited the officers' ability to further de-escalate the situation. After the first OIS, the officers maintained their distance as they attempted to contain the Subject. Again, the Subject's actions limited their ability to de-escalate the situation. After the second OIS, the officers continued to maintain distance as they worked to contain the Subject. With the assistance of additional resources, the officers established a perimeter and contained the Subject in the apartment complex.

The BOPC considered that the Use of Force Review Board (UOFRB) noted that after the first OIS, Officer A momentarily stood outside of cover while attempting to monitor the Subject as he fled through traffic. As this was done to identify the Subject's location to contain him, the UOFRB opined that Officer A's actions were prudent. The UOFRB also noted that after the first OIS, Officers A and B drove forward only 10 feet as they watched the Subject. The UOFRB commended the officers for maintaining their distance while working to contain the Subject. The UOFRB also commended the officers for using the police vehicle as cover instead of foot pursuing the Subject.

Other Resources – After the OIS, Officer A used his/her police radio to advise Communications Division (CD) that shots had been fired. In response, CD advised that officers needed help and requested an air unit. Additional units responded to the scene and helped establish a perimeter, containing the Subject in the apartment complex. With the air unit's assistance, officers were able to monitor the Subject and determine when it was safe to approach him. Using available resources, including a ballistic shield, officers apprehended the Subject without using additional force.

Lines of Communication – Throughout the incident, officers at the scene maintained open lines of communication with each other. Officers A and B discussed the call, communicated the Subject's actions, and coordinated their response. The officers advised CD that they needed a perimeter and provided the general area where it was needed. The air unit arrived and helped establish the perimeter. After locating the Subject, the air unit advised officers of his location and actions. Before approaching the Subject, Sergeant B communicated the tactical plan, as well as the individual roles, to each officer on the tactical team. Using PA systems, both the air unit and ground officers attempted to communicate with the Subject and gain compliance, but they received no response. As the arrest team approached the Subject, they identified themselves as police officers and instructed him not to move. The Subject complied and was apprehended without the need for additional force.

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

Debriefing Point No. 1 - Code Six

Officers A and B responded to a radio call at an intersection and were advised by CD of the Subject's location. As they approached, Officer A raised the vehicle's microphone toward his/her mouth and keyed it twice but was unable to voice his/her Code Six location due to CD's continuing broadcast. As this occurred, the officers were confronted by the Subject. As the Subject removed his pistol from a bag, Officers A and B exited their vehicle and unholstered their pistols. After discharging his/her first round, Officer A advised CD of "shots fired" and provided the location. According to Officer A, he/she was unable to change their status via the mobile data computer (MDC) before the OIS because he/she wanted to monitor the Subject's actions.

The BOPC noted that the UOFRB assessed Officers A and B's adherence to the Code Six policy. The UOFRB noted that as Officers A and B arrived at the intersection, they were advised that the intersection was the Subject's current location. Officer A attempted to advise that the officers were at the scene; however, the frequency was occupied by CD. Before Officer A could broadcast his/her location, the officers were confronted by the Subject. The UOFRB also noted that as the first shots were fired, the frequency was still occupied. Although it would have been better if the officers could have gone Code Six when they arrived at the scene, the UOFRB opined that it simply was not a viable option and the minor delay was necessary for the officers to defend themselves from an imminent lethal threat. As it pertains to Officer A's decision not to use the MDC to place himself/herself at the scene, the UORRB believed that he/she made a sound tactical decision to watch the Subject instead of looking down at the MDC.

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.

Additional Tactical Debrief Topics

- **Background and Fire Discipline/ Control** – During the OIS, Officers A and B's background consisted of a car rental lot and shopping plaza, both of which contained parked vehicles. Four unoccupied vehicles and the rental lot's front window were struck by the officers' gunfire. While not every situation allows officers to decide where police activity will occur, it is important that they remain cognizant of their environment and balance speed & accuracy while discharging their pistols.

Command and Control

At approximately 0934:42 hours, Sergeant A arrived and declared himself/herself as the incident commander (IC). Sergeant A was the first supervisor to arrive at the

scene. Sergeant A set up a command post (CP) in the parking lot nearby. After assigning officers to replace Officers A and B from their positions, he/she directed Officers A and B to turn off their BWV cameras and separate from each other.

Sergeant B arrived and assumed responsibility for tactical planning. Sergeant B used information that he/she received from the air unit to assess the situation. Sergeant B formed a tactical team, which included a DCO, less-lethal force officer, shield operator, and arrest team. Sergeant B was alerted by the air unit that the Subject had rolled onto his stomach and was bleeding. Sergeant B was also advised that the Subject's pistol was on the ground behind him (the Subject). Based on the information, Sergeant B determined that the officers had a tactical "advantage" at that point and needed to render aid to the Subject. Sergeant B was also concerned about an elderly female inside an apartment with a medical condition. In response, Sergeant B formed a plan to apprehend the Subject and communicated it to the arrest team. As they approached the Subject, Sergeant B directed an officer to retrieve the pistol from the ground next to the Subject. The Subject was then taken into custody without further incident.

At 0948 hours, Lieutenant A responded to the scene and assumed the role of IC. Sergeant A remained at the scene and assisted the lieutenant with the incident.

At 0950 hours, Sergeant C obtained Officer A's public safety statement (PSS). Approximately 30 minutes later, Sergeant D obtained Officer B's PSS.

At approximately 1009:38 hours, Lieutenant B arrived at the scene and assumed the role of IC.

The Department Operations Center (DOC) was notified of the OIS at 1005.

The BOPC considered that the UOFRB noted that before they were separated and advised to deactivate their BWV cameras, Sergeant A asked Officers A and B if they had fired their weapons and where they shot. The UOFRB also noted that both questions were asked to gain situational awareness during an ongoing tactical situation. While they would have preferred that Sergeant A had followed the PSS protocols, the UOFRB felt that his/her actions were understandable based on the tactical situation.

As it pertains to Sergeant B's decision to approach the Subject, the UOFRB noted that while important, rendering aid does not supersede officer safety. However, the UOFRB also noted that Sergeant B made an informed decision based on the available information, something that supervisors are expected to do. Based on the totality of the circumstances, the UOFRB determined that Sergeant B's decision to approach the Subject was reasonable and the tactics employed conformed to Department-approved training.

The BOPC determined that the actions of Sergeants A, B, Lieutenants A and B were consistent with Department training and the Department's expectations of supervisors on scene during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this incident, the BOPC determined that the actions of Officers A and B were a substantial deviation, with justification, from Department-approved tactical training. The BOPC also determined that actions of Sergeants A and B did not deviate from Department-approved tactical training.

Drawing/Exhibiting

Officer A

First and Second Occurrences

Upon stopping in the intersection, Officer A exited their police vehicle and unholstered his/her pistol. Officer A then holstered, reentered their police vehicle, and redeployed. Officer A exited again, stood behind his/her ballistic door panel, and unholstered his/her pistol. According to Officer A, the Subject was armed with a pistol and actively shooting at him/her and his/her partner. Officer A believed that the Subject posed a lethal threat.

Third and Fourth Occurrences

After donning his/her ballistic helmet, Officer A unholstered his/her pistol and took a position of cover behind a vehicle parked on the east curb. During this time, Officer A momentarily holstered and then immediately unholstered again. According to Officer A, he/she believed the Subject was still armed and could have reemerged at any moment.

Officer B

First and Second Occurrences

Stopping in the intersection, Officer B exited his/her police vehicle, stood behind his/her ballistic door panel, and unholstered his/her pistol. Officer B then holstered, entered his/her police vehicle, and redeployed. Officer B exited the police vehicle, crouched behind the ballistic door panel, and unholstered his/her pistol again. According to Officer B, the Subject was armed with a pistol and actively shooting at him/her and his/her partner. Officer B believed that the Subject was going to kill him/her or his/her partner.

Third, Fourth, and Fifth Occurrences

Officer B holstered his/her pistol and drove to the intersection. Officer B then unholstered while Officer A requested additional resources. Officer B holstered again and drove the police vehicle onto another street. Officer B then unholstered and took a position of cover behind a vehicle parked on the east curb. Officer B then holstered to don his/her ballistic helmet and immediately unholstered again. According to Officer B, the Subject could have reemerged at any moment and started shooting at the officers again.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their pistols. The UOFRB noted that when Officers A and B arrived at the scene, they were confronted by an armed Subject who shot at them. As the Subject retreated, the officers observed him pointing his gun toward them and believed he was continuing to shoot. The Subject then fled to an apartment complex where the officers contained him. At the time, the Subject's gun was unaccounted for, and the officers were concerned that he could reemerge at any moment. Based on the Subject's actions, the UOFRB felt that it was reasonable for the officers to believe that the situation may escalate to lethal force.

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

Lethal Use of Force

Background – The FID investigation determined that the officers' background consisted of a business parking lot with a storefront building and parked vehicles, large wall west of the building, and another business parking lot which contained parked vehicles.

Officer A – semi-automatic pistol, six rounds fired during two volleys, in southwesterly and northwesterly directions from an increasing distance of 35 to 110 feet.

Round 1 – Discharged in a southwesterly direction, from approximately 45 feet.

According to Officer A, as he/she was stepping out of the police vehicle, the Subject began firing at him/her and his/her partner. Based on the Subject's actions, he/she believed that Subject wanted to kill him/her. In immediate defense of his/her life and his/her partner's, Officer A aimed at the Subject's center body mass and discharged his/her pistol. Although Officer A believed he/she fired two rounds at this point, per the FID investigation, he/she only fired one.

Rounds 2 through 6 – Discharged in a northwesterly direction, from approximately 110 feet.

According to Officer A, he/she observed the Subject running between vehicles toward him/her and his/her partner while he (the Subject) was shooting. Based on the Subject's actions, he/she still believed that the Subject wanted to kill him/her. In response, Officer A stood behind the open passenger door of the police vehicle, extended his/her arms through the open window frame, and discharged five rounds in approximately five seconds. Officer A stated that he/she assessed between each round and observed that the Subject was still running and pointing his pistol at him/her.

Officer B – semi-automatic pistol, four rounds fired in two volleys, in southwesterly and northwesterly directions from an increasing distance of 35 feet to 110 feet.

Rounds 1 through 3 – Discharged in a southwesterly direction, from approximately 35 to 45 feet.

According to Officer B, upon arriving at the intersection, he/she observed the Subject reach into a bag, retrieve a pistol, and immediately start firing at him/her and his/her partner. In response, Officer B discharged one round at the Subject. Officer B then observed the Subject retreating on the sidewalk while pointing the pistol at the officers and firing. While he/she could not see the muzzle flash from the Subject's pistol, Officer B heard rounds being fired. Fearing that the Subject could kill him/her, his/her partner, or a civilian, Officer B discharged two additional rounds. Based on the available evidence, FID investigators were able to determine that the Subject fired two rounds during this incident. The first round was fired simultaneously with Officer B's first round; however, the investigation was unable to determine when the Subject's second round was fired. Additionally, investigators located a live 9mm cartridge case in the street near where the Subject was depicted on security video manipulating his pistol.

Round 4 – Discharged in a northwesterly direction, from approximately 110 feet.

According to Officer B, upon redeploying, he/she observed that the Subject was still actively shooting at him/her and his/her partner while using vehicles in the street as cover. Because he/she did not have a clear view of the Subject, Officer B refrained from firing. However, the Subject then redeployed out in the open while continuing to shoot. Believing that the Subject was trying to kill him/her and his/her partner, Officer B discharged one round from his/her pistol.

The BOPC noted that the UOFRB assessed Officers A and B's lethal use of force. The UOFRB noted that when the officers arrived at the scene, they were immediately confronted by the Subject. The Subject produced a pistol and pointed it at the officers. Believing that the Subject had fired at him/her, Officer B discharged one round from his/her pistol at the Subject. While the investigation determined that the Subject and

Officer B's rounds were fired simultaneously, based on the dynamic nature of this incident, the UOFRB opined that Officer B's perception was reasonable.

The UOFRB noted that the Subject began to run west on the sidewalk and into the street after discharging his first round. Believing that the Subject was shooting at them, Officer A discharged his/her first round and B discharged his/her second & third rounds. The UOFRB also noted that business security video footage depicted the Subject's right arm pointed toward the officers as he ran. Based on the Subject's actions, the UOFRB opined that it was reasonable for the officers to believe that the Subject was trying to shoot them.

The officers then reentered their police vehicle to redeploy. Based on the officers' statements, they believed that the Subject was still actively shooting at them. In response, Officer A discharged five rounds and Officer B discharged one. The UOFRB noted that business security video footage depicted the Subject in the street manipulating and pointing his pistol multiple times at the officers. Although the investigation identified only two rounds fired by the Subject, based on his actions, the UOFRB opined that it was reasonable for officers to believe that he continued to shoot at them.

As it pertains to the number of rounds discharged by the officers, the UOFRB noted that Officer A fired six rounds and Officer B four. Based on the available evidence, the UOFRB opined that both officers assessed an imminent lethal threat each time they discharged their pistols and that the lethal force used was proportional to the reasonably perceived level of resistance.

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