

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

**OFFICER-INVOLVED SHOOTING – 030-22**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Newton	7/2/22		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	6 years
Officer B	8 years, 4 months
Officer C	3 years, 1 month
Officer D	6 years, 8 months
Officer E	2 years, 6 months
Officer F	4 years
Officer G	3 years, 1 month
Officer H	4 years, 5 months
Officer I	6 years, 8 months
Sergeant A	19 years, 6 months

**Reason for Police Contact**

Officers observed a male (the Subject) walking in the roadway. The Subject appeared to be concealing an item in his waistband and to be under the influence of narcotics. The officers attempted to detain the Subject, ordering him to stop and show his hands. The Subject refused to follow commands and walked away from the officers. Fearing that the Subject was armed with a pistol, the officers followed the Subject and requested back-up. The officers repeatedly communicated with the Subject to stop and raise his hands. The Subject refused to cooperate and continued to walk away from the officers. A 40mm Less Lethal Launcher (LLL) was deployed, striking the Subject’s leg. The Subject fell to the ground and produced a pistol, resulting in an officer-involved shooting (OIS).

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 30 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 (BOPC) recommendations, including any Minority Opinions; the report and recommendations of the BOPC 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 23, 2023.

### **Incident Summary**

On Saturday, July 2, 2022, Officers A (passenger) and J (driver) were assigned to a marked black and white hybrid vehicle.

According to Officer A's body-worn video (BWV), at 2140:20 hours, he/she turned on his/her flashlight and exited the passenger side of their vehicle. Officer A illuminated a male (the Subject) walking in the street. The Subject was wearing a dark-colored baseball cap, black jacket, baggy shorts, and dark-colored backpack. The Subject had both of his hands concealed in his jacket pockets near the front waistband area and did not remove them throughout the incident, in spite of being ordered to do so multiple times.

Officer A followed the Subject from behind, walking west, as Officer J approached the Subject from the north. Officer J illuminated the Subject with his/her flashlight and communicated with him by his known moniker. Simultaneously, Officer A ordered, "Let me see your hands. Let me see your hands." The Subject turned his head north toward Officer J and responded, "Nope." Officer A again ordered, "Let me see your hands, dude!" The Subject then turned his body toward the officers and proceeded to walk backward in the street as he shouted, "Come on man, I ain't got nothing on me." Both Officers A and J stood in place and ordered, "Let me see your hands." The Subject did not follow directions, continued to walk backward, and responded, "Why? ,I ain't got nothing on me." Officer J ordered, "Let me see your hands." The Subject responded, "Come on man." Officer A ordered, "Put your hands up." The Subject responded, "I ain't going nowhere man." The Subject turned away from the officers and walked west. Officers A and J followed the Subject. Officer A was positioned approximately 20 feet behind the Subject. Officer J was in an offset position west, approximately 24 feet behind the Subject and 8 feet west of Officer A. Officer J unholstered his/her pistol and held it close to his/her body in his/her right hand with the muzzle pointed toward the ground in the Subject's direction.

**Note:** Officer J indicated that he/she last contacted the Subject approximately a year ago and knew the Subject's moniker.

The Subject continuously turned his head back toward the officers, as he walked away from them. Officer J holstered his/her pistol and followed the Subject.

Officer J stated, "I observed the individual has a bulge in his waistband resembling a firearm. After seeing the individual, I recognized the individual to be an active gang member. Um, I've spoken with different entities regarding this individual and I've had contact with this individual in the past as well. I've spoken to entities in the past regarding this individual, and I know that he has been looked at for being involved in gun sales as well."

According to Officer A, "[W]e observed the suspect who came -- arrived -- he was right around the corner." Officer A further stated, "So as we came to the limit line of the intersection, we observed a suspect wearing a heavy coat on a warm day with his hands inside his pocket. As he's walking along my side of the car, I observed he appeared to be under the influence of narcotics."

According to Officer J, "Suspect was uncompliant, he did -- I gave him commands, um, to take his hands out of his pockets, stop. He -- he was uncompliant. As he walked he would blade his -- his body away from us. At points we wouldn't see. And he kept continued walking westbound [...] the whole time while walking giving him commands, 'Hey, take your hands out of your pocket.' He didn't want to. He's being extremely uncooperative. Um, which is not like the other time when we had contact with him and he was really cooperative with us during those past contacts."

At 2140:33 hours, Officer A communicated with Officer J, "He has something big in the backpack." Simultaneously, the Subject shouted, "I'm not on parole, probation." Officer J shouted, "Hey, let me see your hands!" The Subject turned back and once again shouted, "I'm not on parole, probation" and continued to walk west. Simultaneously, Officer A unholstered his/her pistol, held it down his/her right leg, and ordered, "Let me see your hands, dude!" The Subject continued walking west and shouted, "I'm not on parole, probation." Officers A and J followed the Subject from a distance of approximately 20-25 feet.

Officer J repeatedly ordered, "Get your hands out of your pockets." The Subject did not follow directions and responded, "I'm not doing nothing, man. I was just walking. I'm gonna go home." The Subject continued walking southwest, gradually moving to the southside of the street and walking adjacent to cars that were parked along the south curb.

Officer A stated, "He's walking westbound. I do see an imprint of a hard object through the backpack. It seemed to be pretty big, consistent with a possible sawed-off shotgun. That's what I initially thought or a possible AR, because it was very, very imprinted onto the backpack."

**Note:** Officer A indicated that each time he/she unholstered his/her pistol was for the same reasons, because he/she believed the Subject was armed with a pistol.

At 2140:57 hours, Officer A communicated to Officer J, "415 man with a gun, huh?" Officers A and J moved from the street to the north sidewalk and positioned themselves behind the passenger side of cars that were parallel parked on the north side of the street. Officer A asked, "What do you think?" Officer J did not respond and continued walking on the north sidewalk. Officer J ordered the Subject, "Hey, just post up real quick." Officer J communicated with Officer A, "Put us Code Six, get an additional unit."

**Note:** A review of Newton Area base frequency revealed that Officer A's broadcast was not received.

Officer A continued walking west and moved from the north sidewalk into the street.

There was no response from Communications Division (CD). Officer A followed the Subject from the north side of the street and Officer J followed from the north sidewalk. The Subject continued walking west.

Officer A manipulated his/her handheld radio and repeated his/her broadcast. This time, CD received the broadcast and repeated the request.

Officer J moved to the street and positioned himself behind Officer A. Officers A and J moved from the street to the north sidewalk, positioning themselves alongside cars that were parallel parked and followed the Subject, who was in the street looking back in their direction. Simultaneously, people were walking in the area and music was heard in the background.

Officer A walked into the street and followed the Subject from an off-set position, while Officer J followed from the sidewalk using cars that were parked on the street as cover. Officer A indicated that he/she was not behind cover because he/she was attempting to triangulate on the suspect.

Officers B and I broadcast that they were responding.

Sergeant A broadcast that he/she was also enroute. Officer A then communicated with Officer J, "Hey, I'm just going to put out a back-up." Officer J responded, "Yeah, go ahead." At 2142:03 hours, Officer A requested back-up for a "415-man with a gun." Officer J moved to the street and stopped behind a parked red mini-van. The Subject continued walking west and yelled, "I'm just trying to go home!" Officer J illuminated the Subject, who proceeded to walk southwest toward cars parked along the south side of the street. The Subject refused to stop. Sergeant A responded Code Three (with vehicle emergency lights and siren activated) to the location.

As the Subject continued to walk south, Officer J began directing units to set up a perimeter.

Officer A illuminated the Subject with his/her flashlight and yelled, "Hey bro, real quick, just put your hands-on top of your head!" The Subject kept his hands concealed in his jacket, as he continued walking south and yelled, "Y'all harassing me now!" Officer A repeated, "Put your hands on top of your head, okay! You can't be walking in the middle of the street, okay!" The Subject refused to stop, kept his hands concealed in his jacket, turned back toward Officer A and yelled, "Cause, you guys are chasing me!" Officer A ordered, "Put your hands on top of your head!" The Subject responded, "Nope!"

Officer J illuminated the Subject with his/her flashlight and followed the Subject from the west sidewalk.

Sergeant B broadcast that he/she was responding to the location.

Officer J unholstered his/her pistol and held it with his/her right hand at chest level, with the muzzle pointed down at the ground. Officer J illuminated the Subject with the flashlight in his/her left hand.

The Subject continued walking south in the street adjacent to cars parked along the east curb.

Officer A informed Officer J that he/she would handle radio communications. Officer J responded, "Get airship on the air." An Air Unit responded to the area.

Police Officers D (passenger) and K (driver) responded Code Three to the incident traveling north. As they arrived in the area, Officer D communicated, "Right here." Officer K communicated, "Watch his hands, watch his hands," and stopped the police vehicle approximately 43 feet south of the Subject.

Officer D exited the police vehicle and positioned him/herself behind the passenger door of their police vehicle.

The Subject stopped walking south and turned his body to the west. The Subject turned his head right and left, looking in all directions, turned his body north, and walked north. Officer K moved from behind the door of their police vehicle and positioned him/herself west of the front driver-side wheel. Officer D moved up from his/her position behind the passenger door of their police vehicle to the front right area of the police vehicle and followed the Subject north.

Officer A unholstered and illuminated the Subject with the light on his/her pistol.

Officers D and K were positioned south of the Subject at the doors of their police vehicle. The Subject turned his body west and then turned north. Officer A ordered,

“Get your hands out of your pocket, dude! Get your hands out of your pocket! Stop! Just listen to me okay! Put your hands out of your pocket now, alright. Put your hands out of your pocket.” The Subject did not respond and walked north with both hands concealed in his jacket. Officer A took several steps back and positioned him/herself on the west side of the street as the Subject walked past him/her along the east side of the street.

Officers L and M, responded Code Three to the incident and arrived at the location, traveling north. They positioned their police vehicle behind Officer K’s police vehicle.

Officer M exited his/her police vehicle and moved north toward Officer K, who was positioned at the open driver-side door of their police vehicle. Officer M approached Officer K and unholstered his/her pistol. Officer K moved away from the open door of his/her police vehicle and positioned him/herself approximately four feet west of the hood of his/her vehicle and walked north in the street following the Subject. Officer L moved north from his/her police vehicle and positioned him/herself behind the passenger door with Officer D. Officer L unholstered his/her pistol and held it down to his/her right side.

Officer B positioned his/her police vehicle behind Officer M’s vehicle and ran north. Upon reaching Officer K, Officer B moved to the west sidewalk behind parked cars. Officer B continued running north on the west sidewalk. Officer B approached Officers A and J, who were positioned on the west side of the street behind the parked vehicle.

Simultaneously, Officer I moved north, past Officer L, who was still positioned behind the passenger side door of Officer K’s police vehicle. Officers D and I followed the Subject north from the east side of the street.

Officer K communicated to Officer M, “Hey bring my car up, bring my car up.” Officer M acknowledged, holstered his/her pistol, entered the police vehicle, and drove at a slow speed north on the street. Officer K walked along the front driver-side of the police vehicle and communicated to the officers following the Subject, “Hey! Hold up! Hold up!” Officer I broadcast, “Northbound [...] only, northbound [...] only.” Officer D continued walking north along the east side of the street.

According to Officer K, “I direct a patrol unit to bring my -- my police vehicle up so we can use it as cover due to this guy being possibly armed and concealing his hands. It was [Officer M and Officer L] who got into my black and white. Eventually [Officer M] who was the driver drives up and [he/she] deploys -- they deploy -- [Officer L] deploys from the passenger seat of my black and white. And then I start redeploying officers, making sure that we're using my shop as cover.”

Officers H and N also responded to the incident Code Three.

Officer H walked north, past Officer M who was seated in the driver's seat of the police vehicle. Simultaneously, Officer N walked north toward Officer L, who was still positioned behind the passenger door of the police vehicle.

The Subject walked north on the east side of the street.

Officers A, B, and J moved from the west side of the street and positioned themselves with Officers D and I along the east side. The Subject walked in a northeast direction and stepped onto the east sidewalk. Officer D ordered, "Get on the ground right now!" The Subject turned left, looking back toward the officers, bladed his body to the left, changed direction, and walked in a northwest direction, crossing to the west side of the street.

As he looked back at the officers, the Subject yelled, "What I do?" Officer I unholstered his/her pistol, positioned him/herself on Officer D's left side, and moved east to the east sidewalk. Officer B unholstered his/her pistol and moved from the street to the east sidewalk.

Meanwhile, Officer M slowly drove the police vehicle north. Officer L walked along the passenger side of the police vehicle using the open front door as cover. Officer M instructed Officer L to enter the police vehicle. Officer L entered the police vehicle and sat in the front passenger seat. As Officer M drove north, he/she positioned the police vehicle on the west side of the street. The Subject again changed direction and walked north on the east side of the street.

Officer M indicated that he/she positioned the police vehicle on the west side of the street to block an intersection and prevent the Subject from walking west.

Officers E and F also responded to the incident Code Three.

Sergeant A arrived at the location and parked his/her police vehicle.

Officer E stopped his/her police vehicle. Officer E and Officer F exited the police vehicle and ran north.

Officer F did not "go Code Six" (broadcast that arrived on scene) in order to keep the radio frequency clear.

Sergeant A ran north toward the police vehicle and officers following the Subject. Sergeant A was yelling, "Get less-lethal up! Less-lethal up!" Officer I designated Officer A as the less-lethal-force officer.

Officer E walked past the police vehicle and positioned himself on the east sidewalk along the open driver-side door behind Officer I. Officer E unholstered his/her pistol and held it down at his/her side.

Officer K stated, "I designate [Officer L] to be a cover officer on the left side of the black and white to cover [his/her] partner who's at this point defenseless."

Sergeant A stated that due to the circumstances, he was "comfortable having the amount of people drawn out at that point."

Officers C and G also responded to the location Code Three.

Several other officers responded to the scene Code Three, including Officers O and P.

Officer M unholstered his/her pistol and held it with his/her right hand, as he/she slowly drove the vehicle steering with his/her left hand.

Officer C unholstered his/her pistol and held it down his/her right side.

Officer B positioned himself next to Officer K and communicated, "Hey, me and you are DCO [designated cover officer], okay." Officer K responded, "Yeah." Simultaneously, Sergeant A can be heard ordering, "Hey, somebody get me less-lethal!" Officer I responded, "Yeah, we're getting it. We're getting it."

Officer L ordered the Subject, "Hey bro just lay down! Lay down! Lay down! Lay down! Lay down! Lay down! Lay down on the ground." The Subject did not follow orders and yelled at the officers as he continued walking north. Officer M warned, "You're going to get shot with less-lethal and it's going to hurt!"

Officer L ordered, "Hey, just lay down bro!" The Subject turned his head back toward the officers and continued walking north and yelled, "I'm just trying to go home. I'm just trying to go home."

Simultaneously, Sergeant A asked Officer A, "Hey did you see him move it [the gun]?" Officer A responded, "No. He kept his hands inside his pocket, he wouldn't take them out. He umm, it seems that he is high as well, refusing to get his hands out his pockets."

Sergeant A broadcast, "I need less-lethal up. Can someone breakaway? Get me less-lethal?" Sergeant B responded, "We got one coming."

Simultaneously, Officer B's BWV captured multiple officers ordering the Subject to stop. Officer B called out, "One person! One person!" Officer K communicated, "I got him." Officer K ordered, "Hey stop! That's enough bro! Hey, you're not in trouble right now bro, just stop bro! We don't want to hurt you bro! We don't want to use less-lethal! It will cause serious injury to you, alright! We don't want to hurt you bro! We don't want to hurt you bro! Hey, get your hands out of your pocket! Get your hands out of your pocket!" The Subject turned his head back and yelled at the officers as he continued walking north with both hands concealed in the waistband area of his jacket.



The Subject walked in the street, turning east. Sergeant A ordered, "Get your hands out! Hey bro! Get your hands out!" The Subject responded, "I'm just trying to go home!"

According to Officer B, "Numerous people were talking, so I would give the command to only have one person talk, so we could try to maintain and not confuse the suspect, try to gain that line of communication. It didn't seem to work."

Officer L indicated that there were multiple officers giving orders to the Subject and it was clear that he understood the commands and was aware police officers were following him.

Officer F's BWV captured as he/she held Officer E by the "Sam Browne" (weapon/tool belt) and communicated, "Hey, I would holster up, there's too many officers in front of you."

Officers A and D moved past the police vehicle to the south sidewalk of the street. The use of a Taser was discussed; however, it was deemed too dangerous to get that close.

Sergeant A then requested a ballistic shield be brought up, which Officer C ultimately did. Officer C positioned himself with the shield between the passenger side of the police vehicle and cars parked along the south side of the street.

Officer C stated, "I -- when I retrieved the shield, I initially just grabbed the handle and I realize I don't have the strap around my arm. And I wanted to have the strap in case I needed to -- you know, that's what you do if you -- you need the strap to be able to do all the shield manipulations. Because if you want to let go of the shield and you don't have a strap, you'll just drop it to the ground. So I holstered my handgun because -- to safely get the strap, I needed both my hands. And I had other officers at that point covering me with lethal and less lethal. So I holstered my handgun momentarily, put my arm through the strap. And once I get the shield correctly deployed, I unholster my firearm again."

Sergeant A broadcast, "Once I get less-lethal up here, we are going to utilize it."

Officer O removed the 40mm LLL from the trunk of his/her police vehicle and brought it to Officer A. Officer A took possession of the 40mm LLL, ran east to the police vehicle following the Subject, as he/she loaded the 40mm LLL. Officer A then advised Sergeant A that the 40mm LLL was ready.

According to Officer B ordered, "Just stop! Just stop! Just stop bro." Simultaneously, Sergeant A communicated, "Somebody jump in the car, get on the PA (public address system) -- PA it bud." Officer K holstered his/her pistol and did it.

Simultaneously, Officer A approached the officers and the police vehicle following the Subject and communicated, "Forty's up! Forty's up" (i.e., 40mm LLL ready).

Sergeant A yelled, "Listen! Forty only!" Several of the officers repeated loudly, "Forty!"

Sergeant A yelled, "Forty stand-by! Hit him!" Officer K continued to give orders to the Subject over the PA, "We don't want to hurt you bro. Put your hands up. Put your hands up. We do not want to hurt you."

Sergeant A guided Officer A and positioned him along the passenger side of the police vehicle in line with the officer positioned at the passenger door. Sergeant A informed officers in the area of the deployment of 40mm LLL and broadcast, "Forty stand-by. Everybody, forty stand-by."

The Subject walked on the south side of the street. Officer A fired the 40mm LLL, striking the Subject on the back of the right leg. The Subject yelled, "Ah, [expletive]!" Sergeant A ordered the Subject, "Down!" The Subject removed both hands from his jacket dropping a pistol, as he fell forward. The Subject landed on top of the pistol and was positioned with his left side on the ground facing south at the officers. The Subject reached down and grabbed the pistol that was under his torso near his waistband area with his right hand, holding it in a pistol grip. The Subject extended his left arm and moved his left palm out in front of his face. Officer C moved up with the ballistic shield.

Sergeant A unholstered and raised his/her pistol in a two-handed grip. Sergeant A lowered his/her pistol with his/her right hand, removed his/her radio with his/her left hand, and attempted to broadcast on the radio. Sergeant A again ordered the Subject, "Down!"

**Note:** The investigation revealed that the Subject was struck in the right calf with the 40mm LLL sponge round.

Officer O moved forward, unholstered his/her pistol, and positioned him/herself between the police vehicle and Officer B.

Officer A moved up holding the 40mm LLL and positioned himself between Officer C and Sergeant A.

The Subject began to raise the pistol with his right hand and Officer I fired the first shot at the Subject.

Officer D was walking back as he/she utilized a two-handed grip on his/her pistol. Officer D fired two rounds at the Subject.

Sergeant A raised his/her pistol, utilizing a two-handed grip and fired four shots at the Subject.

Officer A was backing up, holding his/her pistol with his/her right hand and the 40mm LLL pointed down with his/her left hand. Officer A placed the 40mm LLL on the ground

and obtained a two-handed grip on his/her pistol. Officer A fired two rounds at the Subject.

Officer C was holding the ballistic shield with his/her left hand and his/her pistol canted, palm facing down in his/her right hand. Officer C fired two rounds at the Subject.

Officer B held his/her pistol in a two-handed grip pointed at the Subject. Officer B fired five rounds at the Subject.

Officer G utilized a two-handed grip on his/her pistol and fired two rounds at the Subject.

Officer H pointed his/her pistol at the Subject and fired four rounds.

Officer F held his/her pistol in a two-handed grip and fired five rounds at the Subject.

Officer E held his/her pistol in a two-handed grip and fired four rounds at the Subject.

All rounds were fired in approximately three seconds.

The officers subsequently approached, took the Subject into custody, and rendered aid. He was later transported to the hospital, where he was pronounced dead.

**BWV and Digital In-Car Video (DICV) Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	No	No
Officer B	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	Yes	Yes
Officer F	Yes	Yes	Yes	Yes	Yes
Officer G	Yes	Yes	Yes	Yes	Yes
Officer H	No	Yes	Yes	Yes	Yes
Officer I	Yes	Yes	Yes	Yes	Yes
Officer J	No	Yes	Yes	Yes	Yes
Officer K	No	Yes	Yes	No	No
Sergeant A	No	Yes	Yes	Yes	Yes

**Los Angeles Board of Police Commissioners' (BOPC) Findings**

The BOPC reviews each CUOF incident based upon the totality of the circumstances, namely all 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 the tactics of Officer C to warrant a finding of Tactical Debrief. The BOPC found the tactics of Officers A, B, D, E, F, G, H, I, J, K, and Sergeant A to warrant a finding of Administrative Disapproval.

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

The BOPC found Officers A, B, C, D, E, F, G, H, I, J, K, and Sergeant A's drawing and exhibiting of a firearm to be In Policy.

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

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

### **D. Lethal Use of Force**

The BOPC found Officers A, B, C, and D's lethal use of force to be In Policy. The BOPC found Officers E, F, G, H, I, and Sergeant A's lethal use of force to be Out of Policy.

### **Basis for Findings**

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

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability.

Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

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

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

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

**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/her/hers 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** – Over the course of four deployment periods, Officers A and J had worked together multiple times during which they had discussed tactics, specifically contact/cover roles, foot pursuit concepts, and pedestrian stop tactics. According to Officer J, his unit conducted roll-call training as a unit each day on various topics.

Officer J had been tasked with monitoring and suppressing the criminal activities of a local criminal street gang. According to Officer J, he/she knew the area to be a stronghold of the gang. In recent months, there had been shootings and numerous gun arrests in the area. Officer J stated that he/she had arrested multiple gang members with guns. Regarding his/her knowledge of the area, Officer A stated it is gang neighborhood. Officer A said that the gang is known to have committed multiple shootings and its members are often armed with guns.

As they contacted the Subject, Officers A and J assessed his actions and behavior, which led them to believe that he had a pistol and was under the influence of a drug. Their assessment caused Officers A and J to follow the Subject at a distance as they requested additional resources and attempted to contain the Subject.

Arriving at the scene, Officer K assessed the situation and recognized the need for additional cover. He had Officer M bring up a police vehicle to use as mobile cover. Leading up to and during the OIS, Officers A, B, C, D, E, F, G, H, I, and Sergeant A continually assessed the Subject's actions. After the OIS, Sergeant A assessed the Subject's condition and threat he continued to pose as the pistol was still in his possession. After putting a tactical team together, Sergeant A assessed that the Subject had suffered significant injuries which made the need for medical care urgent.

**Time and Redeployment/Containment** – When the Subject refused to comply with Officers A and J's commands, they used distance to provide them with additional time. As they continued to follow the Subject, they maintained their distance and redeployed, using cover intermittently. They used the time they were provided to request additional resources, verbalize with the Subject, and contain him. Officer K arrived and had a police vehicle brought up to be used as mobile cover while following the Subject. Officers B, C, D, E, G, I, K, and Sergeant A redeployed alongside the police vehicle. As they followed the Subject, these officers intermittently used the vehicle as cover. Officer C retrieved a ballistic shield from the trunk of the police vehicle and redeployed it alongside the vehicle.

For approximately eight minutes, officers followed the Subject as he walked away and refused to comply with their commands. During that time, multiple officers tried to obtain the Subject's compliance, but he refused to cooperate. Once the 40mm LLL arrived, Sergeant A directed Officer A to use it to stop the Subject and minimize the threat he posed to the community and the officers. While the 40mm LLL sponge round managed to stop the Subject, he remained armed. In response, Sergeant A and Officer K attempted to direct officers to cover but were unsuccessful.

**Other Resources** – Believing that the Subject was armed, Officer A broadcast a backup for a “415 man with a gun.” As additional units arrived, officers intermittently used a police vehicle for mobile cover. When Sergeant A arrived on the scene, he/she requested a 40mm LLL and ballistic shield. Officer A used the 40mm LLL on the Subject to de-escalate the situation and stop him. After the OIS, the tactical team used a ballistic shield, patrol rifle, and 40mm LLL to take the Subject into custody while minimizing further risk to him and the officers.

**Lines of Communication** – Throughout the duration of the incident, several different officers attempted to communicate with the Subject and gain his compliance. Officers spoke to him in both English and Spanish. Several officers spoke to the Subject directly and Officer K used the police vehicle’s public address (PA) system to give him commands. Officers also communicated with one another to request resources, obtain and use mobile cover, formulate tactical plans, and create an arrest team. Officers also communicated via the police radio to request additional units, establish containment, and advise that the 40mm LLL would be used.

As the officers continued to follow the Subject, Officer K communicated with him using the PA system stating, “Stop, put your hands in the air. We do not want to hurt you. We do not want to hurt you.” Before Officer A discharged his/her 40mm LLL, Sergeant A announced, “Listen! Forty only!” In response, several of the officers repeated loudly, “Forty!” According to Officer B, he/she repeated the command of “40 only” to make other officers aware that “it’s not shots fired” but a less-lethal sponge round, and to eliminate contagious fire. Sergeant A then yelled, “Forty standby!” while Officer K continued to tell the Subject over the PA, “We don’t want to hurt you, bro. Put your hands up. Put your hands up. We do not want to hurt you.”

After the Subject fell and dropped his pistol, the officers ordered him to stay down and not reach for his pistol. Despite the officers’ orders, the Subject reacquired his pistol. Realizing that the Subject was holding a pistol, Sergeant A ordered officers to move behind cover. Sergeant A also motioned with his/her left hand, tapping Officer K on the right torso, guiding him/her to seek cover. In response, Officer K took hold of Officers B and C by the back of their Sam Browne belts as he/she communicated, “Hey back up,” and guided them back to the passenger door of the police vehicle. Officer K communicated, “Cover down! Cover down!” Officer B communicated, “Hey, redeploy, redeploy!” Officer J communicated, “Back up! Back up!”

As this was occurring, Sergeant A ordered the Subject, “Drop that gun! Drop that gun! Drop the gun! Drop the gun!” Officer A also ordered the Subject, “Drop the gun! Drop the gun!” Approximately one second before the OIS, Officer B announced, “I got DCO! I got DCO!” The Subject’s subsequent actions limited the officers’ ability to de-escalate the situation.

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

### **Debriefing Point No. 1 Code Six**

Officers A and J observed the Subject walking in the roadway. Officer J recognized the Subject as an active criminal street gang member, and Officer A believed that he was under the influence of a drug. The officers exited their police vehicle and attempted to contact the Subject; however, they did not advise CD of their location at that point. Approximately 48 seconds later, Officer A attempted to broadcast their location ("Code Six"); however, his/her radio was set to simplex. Approximately one minute and eight seconds after contacting the Subject, Officer A switched to base frequency and advised CD of their location.

The BOPC noted that the UOFRB assessed Officers A and J's adherence to the Department's Code Six policy. The BOPC noted that there was a significant delay between the officers contacting the Subject and their first attempt to place themselves Code Six. The BOPC opined that Officers A and J had ample time and opportunity to advise CD of their location upon contacting the Subject, and the BOPC observed nothing that prevented them from doing so.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and J were a substantial deviation, without justification, from Department-approved tactical training.

### **Debriefing Point No. 2 Cover/Concealment**

During this incident, Officers A, B, D, G, I, J, and K intermittently used parked vehicles as cover while following the Subject as he walked in the street. Officer C arrived after a police vehicle was being used as mobile cover. He/she used the vehicle as cover until he/she retrieved a ballistic shield from the vehicle trunk. Officer C used the ballistic shield as cover for the remainder of the incident. After the Subject was struck with the 40mm LLL sponge round and fell to the ground, Officers A, B, D, E, F, G, H, I, J, and Sergeant A fanned out to the sides of the police vehicle. They were without cover when the OIS occurred.

The BOPC noted that the UOFRB assessed Officers A, B, C, D, E, F, G, H, I, J, K, and Sergeant A's use of cover during this incident. The BOPC noted that Officers A, B, D, G, I, J, K, and Sergeant A left cover numerous times while following the Subject in the middle of the street, unnecessarily leaving them vulnerable to someone whom they believed to be armed with a pistol. Although cover was used periodically while following the Subject, the BOPC opined that Officers A, B, D, G, I, J, K, and Sergeant A should have used the cover that was available to them the entire time. As it pertains to cover after the deployment of the 40mm LLL, the BOPC noted that Officers A, B, D, E, F, G, H, I, J, and Sergeant A moved forward and away from the police vehicle's door, unnecessarily placing themselves at a significant tactical disadvantage as they were exposed to the Subject. The BOPC noted that after Sergeant A confirmed the presence of a pistol with the Subject, neither he/she

nor any of the exposed officers were able to get behind cover before the OIS occurred.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A, B, D, E, F, G, H, I, J, K, and Sergeant A were a substantial deviation, without justification, from Department-approved tactical training. The BOPC also determined that the tactics employed by Officer C did not substantially deviate from Department-approved tactical training.

### **Debriefing Point No. 3 Basic Firearm Safety Rules**

After the Subject fell to the ground and reacquired his pistol, Sergeant A knelt and pointed his/her pistol toward the Subject as he/she assessed what the Subject was holding. Per the BWV footage, Sergeant A's index finger appeared to move from the frame of his/her service pistol toward his/her trigger, where it remained for approximately two seconds before returning to the frame.

The BOPC assessed Sergeant A's adherence to the basic firearm safety rules. The BOPC noted that after the Subject fell to the ground, Sergeant A knelt and pointed his/her pistol toward the Subject. Based on the BWV footage, the BOPC determined that Sergeant A placed his/her finger on the trigger of his/her pistol for approximately two seconds before returning it to the frame. While Sergeant A's finger was only briefly on the trigger, the BOPC determined that based on the available evidence, he/she did not intend to shoot. Rather he/she was assessing what the Subject was holding. As such, the BOPC opined that Sergeant A violated the basic firearm safety rules.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Sergeant A were a substantial deviation, without justification, from Department-approved tactical training.

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

**Back-Up Unit Request** – Officer A initially requested an additional unit. Approximately 30 seconds later, Officer A upgraded his/her request to a backup for a “415 man with a gun.”

**Simultaneous Non-Conflicting Commands** – Throughout this incident, several officers gave simultaneous non-conflicting commands to the Subject.

**Tactical Vehicle Deployment** – Arriving at the scene, Officer M stopped next to a double-parked vehicle and blocked the roadway. This forced other responding units to exit their police vehicles and follow the Subject on foot.

**Profanity** – While issuing orders to the Subject, Officers B, E, and K used profanity. While directing the arrest team to secure one of the Subject's hands, Sergeant A

also used profanity.

**Preservation of Evidence** – After the arrival of the rescue ambulance (RA), Los Angeles Fire Department (LAFD) personnel requested that the pistol be moved. Officer I picked it up and moved it approximately five feet away to allow space for LAFD personnel to render medical aid. Officer I also retrieved the Subject's identification from the ground to assist LAFD in identifying the Subject.

**Required Equipment** – Officers A, B, E, F, H, I, K, L, M, N, O, P, and Sergeant A were not equipped with a baton on their persons. Officer N was not equipped with his/her hobble-restraint device on his/her person.

**Visible Tattoo** – Officer H can be seen in his/her BWV with his/her tattoos exposed on his/her right forearm.

**Operating Police Vehicle while Maintaining Control of Service Pistol** – While driving the police vehicle officers used as mobile cover, Officer M held his/her service pistol in his/her right hand while steering the vehicle with his/her left.

**Securing Evidence** – When this incident occurred, Officer D was inside Newton Police Station completing an arrest report. When Officer D responded, he/she left evidence unsecured at his/her workstation. The item was subsequently booked into evidence.

## **Command and Control**

Arriving at the scene, Officer K exercised command and control by directing Officer M to drive the police vehicle so that it could be used as mobile cover. Officer K then directed Officer L to provide lethal force cover for Officer M while he/she drove. Officer K used the PA system to communicate with the Subject. After the deployment of the 40mm LLL, he/she repositioned officers to create distance, at which point the OIS occurred. After the OIS, Officer K requested a rescue ambulance (RA) and assisted Sergeant A with coordinating an arrest team and identifying the involved officers.

Sergeant A arrived on the scene approximately four minutes before the OIS and immediately declared himself as the incident commander (IC). Sergeant A directed officers to use a ballistic shield and requested a less-lethal force option. Based on the available evidence it does not appear that before the OIS, Sergeant A established a DCO, arrest team, or contact officer. It also does not appear that Sergeant A minimized the number of lethal force options or used sufficient time to direct his/her officers to cover.

After the Subject fell to the ground, Sergeant A unholstered his/her service pistol and stood in front of/parallel with his/her officers as he/she attempted to determine if the Subject was armed. The BOPC opined that this may have limited his/her ability to establish roles or direct officers to seek cover before the OIS.

After the OIS, Sergeant A broadcast a help call and began assigning lethal and less-lethal force roles. He/she ensured that the ballistic shield was part of the arrest team, developed a direction of approach, and ensured that officers had containment. Sergeant A confirmed that everyone knew their roles, and he/she monitored the arrest team as they approached the Subject. Cognizant of the number of involved officers, Sergeant A requested multiple supervisors to assist with the scene.

Sergeant B arrived on the scene as the OIS occurred. As such, he/she was not in a position to assist Sergeant A with command and control. After the OIS, Sergeant B assisted in ensuring that an arrest team was established and coordinating the efforts to apprehend the Subject. After the Subject was taken into custody, Sergeant B identified involved personnel and directed officers to identify evidence and witnesses and start a crime scene log. When a hostile crowd began to form, Sergeant B shifted his/her efforts toward controlling the crowd.

As it pertains to separation and monitoring, various supervisors monitored various involved officers and Sergeant A.

The BOPC noted that the UOFRB assessed Officer K's command and control. The BOPC noted that Officer K made several leadership decisions that exemplified maturity, specifically introducing the police vehicle as cover and trying to slow the incident. After the 40mm LLL was deployed, Officer K recognized the need to redeploy to cover and assisted Sergeant A in command and control. The BOPC commended Officer K for his/her efforts to manage personnel during a critical incident.

The BOPC also assessed Sergeant A's command and control. The BOPC noted that Sergeant A was expected to take an active leadership role and reduce the overall intensity of the incident. However, Sergeant A appeared overly involved in the Subject's actions, which seemed to limit his/her ability to effectively manage his/her personnel. Specifically, Sergeant A did not designate roles, establish a tactical plan, or use sufficient time to direct his/her officers to seek cover before the OIS. The BOPC opined that this may have reduced the number of officers involved in the OIS. The BOPC did note Sergeant A's command and control efforts after the OIS.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Sergeant A were a substantial deviation, without justification, from Department-approved tactical training.

## **Drawing/Exhibiting**

- **Officer J**

Officer J unholstered his/her pistol twice during the incident. Officer J observed the Subject walking with his hands in his pockets and what he/she believed to be the “butt” of a pistol concealed in the Subject’s jacket pocket. Fearing that the Subject was armed with a pistol that could cause serious bodily injury, Officer J unholstered his/her pistol. Officer J again unholstered his/her pistol after the Subject was struck by a 40mm LLL sponge round causing him to fall and drop the pistol.

- **Officer A**

Officer A unholstered his/her pistol three times during the incident. According to Officer A, he/she believed that the Subject was concealing a pistol because he was wearing a bulky jacket on a warm day, concealing his hands in his jacket pocket, and carrying a backpack in which he observed an imprint of a hard object that he/she believed was a “sawed-off shotgun” or an “AR” style rifle. Officer A formed the opinion that the Subject was possibly armed with a firearm and unholstered his/her pistol. Officer A unholstered his/her pistol a second time for the same reasons and a third time after the Subject fell from being struck with the 40mm LLL sponge round and dropped a pistol.

- **Officer D**

Officer D unholstered his/her pistol once and exhibited his/her patrol rifle once during the incident. According to Officer D, he/she unholstered his/her pistol because he/she believed that the situation could escalate to lethal use of force due to the broadcast of a backup for a “415 man with a gun.” After the OIS, Officer D was assigned as the designated cover officer (DCO) and elected to deploy his/her patrol rifle due to the distance and accuracy afforded by the rifle.

- **Officer K**

Officer K unholstered his/her pistol five times during the incident. Officer K responded to a backup request for a “415 man with a gun.” Arriving at the scene, Officer K observed the Subject concealing both his hands in his pockets and a “large bulge.” Officer K unholstered his/her pistol in response. Officer K unholstered his/her pistol a second, third, and fourth time for the same reasons as the circumstances did not change. After the Subject dropped his pistol, Officer K unholstered his/her pistol a fifth time. Officer K feared that the Subject was going to shoot him and his/her partners.



- **Officer H**

According to Officer H, he/she was responding to a backup request for a man with a gun. Arriving at the scene, Officer H observed the Subject walking away from officers concealing his hands in his pockets. In fear that the Subject was possibly armed with a pistol, Officer H unholstered his/her pistol.

- **Officer I**

Officer I arrived and observed the Subject concealing his hands in his pockets. According to Officer I, he/she formed the opinion the Subject was armed with a pistol based on the nature of the backup request, Subject concealing his hands in his pockets, Subject wearing a jacket in warm weather indicating he could be concealing a pistol, and knowing it is a gang neighborhood. Officer H unholstered his/her pistol because he/she believed that the situation could escalate to lethal use of force.

- **Officer B**

According to Officer B, he/she believed that the Subject was armed with a pistol. The Subject's hands were concealed in his pockets, and he refused to take them out. The Subject's actions and behaviors were like those of persons armed with a pistol who Officer B had experienced during prior arrests. Based on his/her observations and experience, Officer B formed the opinion that the Subject was armed with a pistol and that the situation could escalate to the point where lethal force could be justified. In response, he/she unholstered his/her pistol. Shortly after the OIS, Officer B holstered his/her pistol because he/she intended to be part of the handcuffing team. Instead, Officer B was assigned as the DCO and unholstered his/her pistol again.

- **Officer E**

Officer E unholstered his/her pistol twice during the incident. According to Officer E, a radio transmission was broadcast that the Subject was armed with a handgun, he/she observed the Subject concealing his hands in his pockets refusing to comply, and Officer E formed the opinion that the situation could escalate to lethal use of force. Officer E unholstered his/her pistol twice for the same reasons.

- **Officer C**

Officer C unholstered his/her pistol twice during the incident. Arriving at the scene, Officer C observed multiple officers using a police vehicle as cover with their pistols unholstered and observed the Subject concealing his right hand in his jacket pocket. According to Officer C, based on his/her observations, he/she believed that the Subject was concealing a pistol and the situation could escalate to the point where lethal force could be justified. Officer C unholstered his/her pistol. Upon being directed to retrieve a ballistic shield, Officer C holstered his/her pistol and retrieved a

ballistic shield from the police vehicle that was being used as cover. The role of the ballistic shield operator is to be the DCO as the shield is deployed in front of all other officers. Officer C unholstered his/her pistol a second time because he/she was the DCO and the circumstances around the Subject remained the same.

- **Officer G**

Officer G observed that the Subject was concealing his hands in his pockets and wearing a “baggy sweatshirt” in July. Officer G believed that the Subject’s actions and attire were an indication that he was concealing a firearm in his pockets. Believing that the situation could escalate to lethal use of force, Officer G unholstered his/her pistol.

- **Officer F**

Officer F observed that the Subject’s hand was near his (the Subject’s) pistol, which had an extended magazine. Officer F stepped forward and unholstered his/her pistol because he/she that believed that the situation could escalate to the point of lethal force.

- **Sergeant A**

Sergeant A responded to a backup for a “415 man with a gun”. Arriving at the scene, Sergeant A observed that the Subject’s right hand was in his waistband area. Based on his/her training, experience, and knowledge of the area, Sergeant A formed the opinion that the Subject’s actions were consistent with someone carrying a pistol. After the Subject fell to the ground, Sergeant A unholstered his/her pistol and assessed whether the Subject was holding a pistol.

The BOPC noted that the UOFRB assessed Officers A, B, C, D, E, F, G, H, I, J, K, and Sergeant A’s drawing and exhibiting of their pistols. As it pertains to Officers A and J, the BOPC noted that they had observed the Subject, a known criminal street gang member, walking in a known gang area. The Subject was wearing an unseasonably heavy jacket and concealing his hands in his pockets. The Subject had been asked to remove his hands but refused. Officer A observed what appeared to be the imprint of a sawed-off shotgun in the Subject’s backpack and Officer J observed a bulge in his waistband resembling a gun. Additionally, Officer J had been advised that the Subject was involved in the illegal sales and manufacturing of firearms. Based on the totality of the circumstances, the BOPC determined that Officers A and J’s drawing and exhibiting of their service pistols conformed to policy.

Regarding Officers B, C, D, E, F, G, H, I, and K, the BOPC noted that the officers responded to a backup for a man with a gun. Arriving at the scene, the officers observed the Subject concealing his hands in his pockets and refusing to comply with the officers’ commands. The BOPC noted that the officers unholstered their pistols because they believed the Subject was armed with a pistol and/or observed him in

possession of a pistol after being struck by the 40mm LLL sponge round. The BOPC noted that each officer's occurrence of drawing and exhibiting was consistent with their previous occurrences as the circumstances leading them to unholster their pistols had not changed. While the BOPC was concerned about the number of officers that were unholstered at various points during this incident, they noted that it was a separate issue about command and control. Based on the totality of the circumstances, the BOPC determined that Officers B, C, D, E, F, G, H, I, and K's drawing and exhibiting of their pistols conformed to policy.

As it pertains to Sergeant A, the BOPC noted that he/she responded to a backup for a man with a gun. Arriving at the scene, he/she had observed behavior that based on his/her training and experience led him to believe the Subject was concealing a pistol. After the Subject was struck by the 40mm LLL sponge round, Sergeant A unholstered his/her pistol and assessed whether the Subject was armed. The BOPC noted that the Subject had dropped his pistol but chose to reacquire it. Based on the Subject's actions, the BOPC opined that it would have been reasonable for Sergeant A to believe that the situation may escalate to lethal force. Although the BOPC determined that Sergeant A's drawing and exhibiting conformed to policy, they would have preferred that he/she had remained holstered and focused on supervisory oversight. However, as noted above, the BOPC believed that command and control was a separate issue for which they determined Sergeant A had substantially deviated without justification.

As it pertains to Officer D's exhibiting of his/her patrol rifle, the BOPC noted that following the OIS, the Subject had remained in possession of the pistol. As the arrest team was being formed, Officer D was the DCO. Because the Subject was contained in an open area, Officer D determined that the rifle was better suited for the situation than his/her pistol. In response, Officer D deployed his/her rifle. Based on the totality of the circumstances, the BOPC determined that Officer D's exhibiting of his/her rifle conformed to policy.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, E, F, G, H, I, J, K, and Sergeant A 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, B, C, D, E, F, G, H, I, J, K, and Sergeant A's drawing/exhibiting of a firearm, all occurrences, to be In Policy.

### **Less-Lethal Use of Force**

- **Officer A** – 40mm LLL, one sponge round from approximately 36-40 feet.

Officer A had formed the opinion that the Subject was armed with a pistol. The Subject was concealing his hands in his pockets and refusing to comply with the officers' commands. According to Officer A, as they followed the Subject, he observed multiple pedestrians walking around the neighborhood. To stop the Subject, Officer A

discharged one sponge round from his/her 40mm LLL, striking the back of the Subject's right leg.

The BOPC noted that the UOFRB assessed Officer A's less-lethal use of force. The BOPC noted that Officer A had observed the Subject, a known criminal street gang member, walking in a known gang area. Based on the Subject's demeanor, Officer A believed that he was under the influence of a drug. The Subject was wearing an unseasonably heavy jacket, there appeared to be a sawed-off shotgun in his backpack, and he was concealing his hands in his pockets. The Subject had been asked to remove his hands from his pockets but refused. Based on his/her observations, Officer A also believed that the Subject was armed.

The BOPC noted that while following the Subject, Officer A observed numerous people in the area. While not expressly stated during his/her interview with FID, the BOPC opined that Officer A believed that the Subject posed an immediate threat to the public's safety as well as the officers'. Therefore, the BOPC felt there was significant governmental interest in using the 40mm LLL to stop the Subject. The BOPC opined that the use of the 40mm LLL allowed officers to de-escalate the situation while minimizing the danger to the public and officers. The BOPC noted that the Subject's subsequent actions escalated the situation. Additionally, while Sergeant A directed Officer A to discharge the 40mm LLL, the BOPC noted that Officer A stated that he/she (Officer A) decided to discharge the sponge round. As such, the BOPC opined that Officer A had developed an independent justification for using the 40mm LLL.

As it pertains to a use of force warning, the BOPC noted that according to Officer M, he/she had issued the Subject a warning, advising that he would be struck with the 40mm LLL sponge round if he did not cooperate and that it was going to hurt. Officer M also stated that he/she heard multiple officers issuing the use of force warnings to the Subject as well.

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 less-lethal use of force was proportional and objectively reasonable. Therefore, the BOPC found Officer A's less-lethal use of force to be In Policy.

### **Lethal Use of Force**

- **Officer I** – Pistol, one round from approximately 27-29 feet, in a northerly direction.

**Background** – According to Officer I, his/her background consisted of parked vehicles, a closed school, and no pedestrians.

According to Officer I, he/she had observed the Subject tense his right arm while blocking the light with his left hand. After falling to the ground, the Subject faced the officers. Observing the Subject raise his right arm, Officer I believed that the Subject was going to shoot him and/or his/her partners. (According to Officer I's BWV

footage, at 2149:05 hours, the Subject began to raise the handgun with his right hand.) In response, Officer I discharged one round from his/her pistol.

- **Officer D** – Pistol, two rounds from approximately 24-27 feet, in a northerly direction.

**Background** – According to Officer D, his/her background was a closed, dimly lit school and there were no pedestrians or officers in the background.

### **Round One**

According to Officer D, he/she observed the Subject pick up his pistol and began raising it toward him. Officer D believed that the Subject was pointing the pistol in his/her direction. Fearing for his/her life, Officer D discharged one round from his/her pistol at the Subject.

### **Round Two**

After discharging his/her first round, Officer D continued to perceive a lethal threat because the Subject was still moving while holding his pistol. Fearing for his/her life, Officer D discharged his/her second and final round from his/her pistol at the Subject.

- **Officer A** – Pistol, two rounds from approximately 29-31 feet, in a northerly direction.

**Background** – According to Officer A, his/her background consisted of the street due to his/her downward trajectory. Officer A added that there were vehicles and a “big wall” in his/her background.

### **Round One**

According to Officer A’s BWV, he/she was backing up, holding his/her pistol with his/her right hand and the 40mm LLL pointed down with his/her left hand. Officer A placed the 40mm LLL on the ground and obtained a two-handed grip on his/her pistol. Officer A then fired two rounds at the Subject.

According to Officer A, he/she observed the Subject reach for and grab the pistol with his right hand: then his elbow begin to move in an “upward motion.” Officer A observed the Subject point the pistol in his/her and other officers’ direction. Fearing for his/her life and the safety of the other officers, Officer A discharged one round from his/her pistol.

## Round Two

After discharging his/her first round, Officer A assessed the Subject's actions and observed that the pistol was still pointed in his/her and the other officers' direction. To stop the lethal threat, Officer A discharged a second and final round from his/her pistol.

- **Officer C** – Pistol, two rounds from approximately 27-30 feet, in a northerly direction.

**Background** – According to Officer C, his/her background consisted of the pavement as he/she was shooting in a downward trajectory.

According to Officer C, he/she observed the Subject gripping his pistol in a one-handed shooting grip. Per Officer C, the Subject appeared to be looking toward the officers. Observing the Subject beginning to move his arm and elbow, Officer C believed that the Subject was going to “clear the ground” and “his waistband” to point the pistol at him/her and the other officers. Fearing that the Subject was going to point his/her pistol toward officers and shoot, Officer C discharged two rounds from his/her pistol.

- **Officer B** – Pistol, five rounds from approximately 27-30 feet, in a northerly direction.

**Background** – According to Officer B, his/her background consisted of the ground due to his/her shooting at a downward angle. Officer B added that his/her background was clear with no pedestrians, parked vehicles, and a wall to a school.

## Round One

According to Officer B, when the Subject fell to the ground, his right hand came out of his pocket; and Officer B immediately observed a black semi-automatic pistol with an extended magazine. Officer B then observed the Subject obtain a “firm grip” on the pistol. Based on the Subject's body language, Officer B believed that he was “trying to muscle up courage” to kill him or his/her partners. To prevent this, Officer B discharged one round from his/her pistol and assessed.

## Round Two

Officer B stated the Subject continued to move his arm which held the pistol. Officer B believed that the Subject was attempting to get a better shooting platform or aim the pistol at officers. In response, Officer B discharged a second round from his/her pistol.

### **Round Three**

Officer B continued to see the Subject moving his arm and body. Believing that the Subject was trying to shoot him, Officer B discharged a third round from his/her pistol.

### **Round Four**

Observing that the Subject was still moving his arm while armed with the pistol, Officer B believed that he was going to kill him/her or another officer. In response, Officer the Subject discharged his/her fourth round from his/her pistol.

### **Round Five**

Officer B believed that the Subject still had the will to “make it out” or “kill.” In response, Officer B discharged his/her fifth and final round from his/her pistol.

- **Officer G** – Pistol, two rounds from approximately 27-30 feet, in a northerly direction.

**Background** – Officer G described his/her background as having no pedestrians or foot traffic and some parked vehicles at the time of the OIS.

According to Officer G, the Subject rolled over “slightly,” lifting his right hand as he pointed the pistol in the other officers’ direction. Seeing the number of rounds in the Subject’s magazine, Officer G feared that he could shoot multiple rounds, striking the officers. Perceiving an imminent lethal threat to his/her life and his/her partners’ lives, Officer G discharged two rounds from his/her pistol.

- **Officer H** – Pistol, four rounds from approximately 30-33 feet, in a northerly direction.

**Background** – According to Officer H, his/her background consisted of a closed school and parked vehicles with no pedestrians in the area at the time of the OIS.

### **Rounds One and Two**

According to Officer H, he/she observed that the Subject was armed with a pistol. The Subject appeared to scan the area and focus on the officers who were on the opposite side of the police vehicle. Officer H then observed movements consistent with the Subject raising the pistol from his waistband. Believing that the Subject was going to shoot one of his/her partners, Officer H discharged two rounds from his/her pistol.

### **Round Three**

After discharging two rounds, Officer H assessed the Subject's movements and believed that he was still bringing the pistol up from his waistband. In response, Officer H discharged his/her third round.

### **Round Four**

After firing his/her third round, Officer H assessed the Subject's actions and believed that he was still attempting to raise the pistol from his waistband. In response, Officer H discharged his/her fourth and final round. Then, Officer H assessed that the Subject had stopped moving and ceased firing.

- **Officer F** – Pistol, five rounds from approximately 31-34, in a northerly direction.

**Background** – Officer F described the background as having parked vehicles, an empty school, and no pedestrians walking around at the time of the OIS.

### **Rounds One and Two**

According to Officer F, he/she observed the Subject lift his shoulder and look directly at him. The Subject grabbed the pistol, raised his arm, and pointed the muzzle in Officer F's direction. Believing that the Subject was going to shoot him/her, Officer F discharged two rounds from his/her pistol.

### **Rounds Three and Four**

Officer F assessed the Subject's actions after he/she discharged his/her first two rounds and determined that the Subject was still a lethal threat because he still had the pistol pointed in his/her direction. In defense of his/her life, Officer F discharged two more rounds from his/her pistol.

### **Round Five**

Officer F assessed after his/her fourth round and determined that the Subject was still a lethal threat as he/she was still looking around and armed with the pistol. In response, Officer F discharged his/her fifth and final round.

- **Officer E** – Pistol, four rounds from approximately 32-35 feet, in a northerly direction.

**Background** – Officer E described his/her background as having parked vehicles, a school, and an unknown structure.

According to Officer E, he/she ordered the Subject not to reach for the gun. Despite this, the Subject grabbed the pistol, canted his elbow, lifted the pistol, and appeared to point it toward the officers. Fearing that the Subject was going to shoot him/her,



Officer E discharged a total of four rounds as he/she assessed the Subject's actions. According to Officer E, as he/she discharged his/her rounds, the Subject continued to move his right elbow and hand, raising the gun toward the officers.

The BOPC noted that the UOFRB assessed Officers A, B, C, D, E, F, G, H, and I's lethal use of force. The BOPC noted that after falling, the Subject chose to reacquire his pistol, which officers described as having a high-capacity magazine protruding from the handle. Despite repeated orders, the Subject began to lift his right arm. The BOPC noted that as this occurred, some of the officers believed that he was raising the pistol while others believed he was pointing it toward them and/or their partners. Some of the officers also believed that the Subject was looking in their direction and using his hand to shield his eyes from their lights. Regardless of whether the Subject was raising the pistol or pointing it, the BOPC opined that it was reasonable for the officers to believe that he had the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to them and that his action had to be instantly confronted and addressed.

The BOPC noted in its review of this incident that over the last five years the Department has stressed the importance of limiting the number of lethal-force options by using designated cover officers (DCOs). Part of this emphasis places the impetus of assuming ancillary roles on the officers, as opposed to them automatically assuming lethal-force cover roles. By limiting the number of lethal-force options, the Department mitigates the potential for a situation in which multiple officers discharge their firearms at a single suspect. Limiting the number of lethal-force options also reduces the danger to the community, minimizes the potential for contagious fire, and ensures the deployment of less-lethal-force options. While the BOPC understood that this was a difficult situation and there were issues with supervisory oversight, the BOPC's expectation is that Officers E, F, G, H, and I (on the driver side of the police vehicle) would have refrained from using lethal force, as there were sufficient DCOs on the passenger side of the police vehicle (Officer A, B, C, and D) who were better positioned to address the lethal threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, and D, in the same situation, would reasonably believe that the lethal use of force was proportional, objectively reasonable, and necessary. Additionally, the BOPC determined that an officer with similar training and experience as Officers E, F, G, H, and I, in the same situation, would not have believed that the lethal use of force was proportional, objectively reasonable, or necessary. Therefore, the BOPC found Officers A, B, C, and D's lethal use of force to be In Policy. The BOPC also found Officers E, F, G, H, and I's use of lethal use of force to be Out of Policy.

- **Sergeant A** – Pistol, four rounds from approximately 31-34 feet in a northerly direction.

**Background** – According to Sergeant A, his/her background was a closed school behind the Subject and the ground, as he/she was firing at a downward angle.

### **Round One**

According to Sergeant A, after the Subject fell to the ground, he/she observed that the Subject was armed with a blue steel semi-automatic pistol with an extended magazine. Sergeant A feared that the Subject was going to shoot him or one of his/her officers. Observing the Subject raise the pistol in a “threatening manner,” Sergeant A discharged his/her service pistol and assessed.

### **Rounds Two through Four**

Sergeant A indicated that he/she did not see if the Subject was affected by the first round but could see that he maintained his grip on the pistol. In response, Sergeant A discharged his/her second round and assessed; the Subject continued to maintain control of the pistol. As a result, Sergeant A discharged his/her third and fourth rounds, assessing as he/she fired; the Subject continued to maintain control of the pistol. After discharging his/her fourth round, Sergeant A observed that the Subject was still holding the pistol but had slumped over. In response, Sergeant A ceased firing.

The BOPC noted that the UOFRB assessed Sergeant A’s lethal use of force; however, they were not unanimous in their findings. As it pertains to the UOFRB Majority, they noted deficiencies in Sergeant A’s command and control before the OIS. Specifically, the Majority felt that Sergeant A should have remained behind his/her officers as opposed to being in front of or online with them. The Majority felt that this would have allowed Sergeant A to better manage his/her personnel by engaging in active leadership to command others while using available resources to accomplish tasks and minimize risk. Had he/she done so, Sergeant A may have recognized the number of officers who were providing lethal-force cover and determined that it was not necessary for him to shoot as well. By standing in front of/parallel with his/her officers, Sergeant A became focused on the Subject and failed to use available resources and techniques before the OIS. As such, the Majority determined that Sergeant A’s lethal use of force was Out of Policy.

The UOFRB Minority disagreed with the Majority’s opinion. The Minority noted that the UOFRB had already assessed Sergeant A’s deficient command and control as part of his/her tactics with a finding of Administrative Disapproval. The Minority also noted that the UOFRB assessed Sergeant A’s drawing of his/her firearm and found it to be In Policy. The Minority noted that Sergeant A was in the same tactical position as the officers whose lethal force was found to be In Policy and that he/she perceived an imminent threat to himself and his/her officers, just as the other officers did. The Minority opined that Sergeant A should be judged by the same rationale as the officers, given the same set of circumstances. Additionally, the Minority opined that Sergeant A’s ability to protect him/herself and others from a lethal threat should not be

determined by his/her rank. The Minority determined that Sergeant A's lethal use of force to protect himself and the officers from what he/she perceived to be a deadly threat was objectively reasonable, proportional, and necessary. As such, the Minority determined that Sergeant A's lethal use of force was In Policy.

Based on the totality of the circumstances, the BOPC agreed with the UOFRB Majority and determined that an officer with similar training and experience as Sergeant A in the same situation, would not reasonably believe that lethal use of force was proportional, objectively reasonable, and/or necessary. Therefore, the BOPC found Sergeant A's lethal use of force to be Out of Policy.