

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

OFFICER-INVOLVED SHOOTING – 037-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest	7/18/22		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	22 years, 6 months
Officer E	7 years, 2 months

Reason for Police Contact

On Monday, July 18, 2022, at approximately 1920 hours, officers responded to a radio call of an assault with a deadly weapon (ADW) suspect there now. The reporting party advised the Communications Division (CD) operator that the subject was armed with a black semiautomatic pistol. Officers observed a male matching the description (the Subject) and gave him verbal commands to show his hands. The Subject did not comply with the officers' orders. Instead, he produced a black object resembling a pistol and pointed it toward a uniformed sergeant, resulting in an officer-involved shooting (OIS).

The Subject was struck by gunfire and fell onto the pavement. An arrest team was formed, and the Subject was taken into custody. A black metal door lock latch actuator was recovered at the scene.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 39 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 June 27, 2023.

Incident Summary

On Monday, July 18, 2022, at approximately 1920 hours, a CD Emergency Board Operator (EBO) received a 911 call from Witness A, who reported that a male (the Subject) was going through his trash bin. According to Witness A, he told the Subject to leave, and then the Subject retrieved a black semiautomatic pistol from his person and held it in one of his hands.

At approximately 1922 hours, CD broadcast an ADW radio call.

At approximately 1922 hours, Officers A and B advised CD to assign the call to them. Officer B advised CD they were responding Code Three (with police vehicle emergency lights and siren activated).

In the interim, CD received an additional 911 call from Witness B, who requested a police response to the area. Witness B told the EBO that she was concerned because she observed the Subject light an item on fire, leave it on the street, and walk away from the burning item. Witness B informed the EBO that the Subject was walking around with a stick and holding several items in his hands. When the EBO asked Witness B if the Subject was armed with a gun, Witness B told the EBO she had seen the Subject with a pistol in his hand but could no longer see it. During a later interview with FID investigators, Witness B stated that the Subject appeared to be having mental issues and was acting irrationally.

Officer A activated the vehicle's emergency lights and siren and responded Code Three to the location. Officers A and B then activated their body-worn video (BWV) cameras. As the officers responded, they discussed tactics, and then Officer B read the comments of the call to Officer A. Officer B provided Officer A with the Subject's descriptors and advised that the Subject was armed with a black semiautomatic pistol.

Officers C and D were starting their watch and loading their police vehicle when the radio call was broadcast. They were cognizant that the radio call was within their assigned area and decided to respond. Officer D advised CD that they were responding.

At 1924:40 hours, Officer B broadcast that they were Code Six (had arrived on scene). Then, CD broadcast that the reporting party could no longer see the Subject, who was last seen in an alley. Officer A drove around the area in an attempt to locate him.

Sergeant A also responded to the area and asked CD to repeat the Subject's description. At 1925:15 hours, CD broadcast the description to Sergeant A.

At approximately 1926 hours, in response to Witness B's 911 call, CD broadcast, additional information to Southwest Division units with an up-dated location of the Subject. CD broadcast that it was unknown if there was a pistol, but the Subject was carrying a stick and lighting trash on fire.

In response to the additional crime broadcast, Officers E (driver) and F (passenger) advised CD that they would provide back-up. This was the first day that Officers E and F had been assigned together as partners. According to Officer F, at the beginning of their watch they discussed tactics and went over contact/cover responsibilities, lethal/less-lethal force options, and communications. Officer F stated that their discussion was interrupted due to the additional crime broadcast. According to Officer E, they only discussed contact/cover responsibilities and that Officer F speaks Spanish.

At 1926:26 hours, Officer F advised CD that they were responding Code Three. Officers E and F then activated their BWV cameras. During their response, Officers E and F discussed the radio call comments and Subject's last known location.

Meanwhile, Officers A and B continued to search for the Subject. BWV captured the officers discussing tactics as they attempted to locate the Subject. Officer A advised Officer B that Officer B would be the lethal-force/contact officer and Officer A would be the less-lethal force officer armed with a Taser.

At approximately 1927 hours, the digital in-car video (DICV) from Officers A and B's police vehicle captured Witness B driving north and initiating contact with the officers. Officer A stopped their police vehicle alongside Witness B's vehicle and communicated with her through the open driver's side window. As captured on BWV, Witness B told the officers that she observed a male walking around the area and believed that she saw him with a pistol in his hand. The officers continued their search for the Subject.

At approximately 1928 hours, the DICV from Officers E and F's police vehicle captured their arrival in the area and start of search for the Subject. According to the CD Incident Details Report, Officers E and F showed themselves at the scene via their Mobile Digital Computer (MDC) at 1929:18 hours.

At 1928:53 hours, Sergeant A broadcast that he/she was Code Six in the area. Sergeant A stated he/she did not activate his/her BWV camera when he/she arrived in the area because he/she had no public contact.

According to Sergeant A, he/she recalled the CD broadcast describing the Subject's physical description and that he was armed with a black semiautomatic pistol. Sergeant A, along with Officers A, B, E, and F searched the surrounding area for the Subject. Officers E and F terminated their BWV recordings at 1931 hours before the Code Four (no additional assistance needed) broadcast.

Officers A and B did not locate the Subject during their search; therefore, they responded to Witness A's location to interview him. At 1931:33 hours, as they waited for Witness A to exit his residence, Officer B broadcast a Code Four, that they were unable to locate the Subject. Shortly thereafter, Witness A exited his residence and began to report the incident to the officers.

According to Sergeant A, he/she heard Officer B's broadcast and decided to leave the area, believing that the Subject was gone.

At approximately 1932 hours, Sergeant A was driving east when he/she observed the Subject walking south on the east sidewalk. According to Sergeant A, the Subject appeared to be homeless. Sergeant A continued east and noticed an approaching police vehicle traveling west toward him/her, containing Officers E and F.

Believing the Subject resembled the Subject described in the radio call comments, Sergeant A made a U-turn and stopped along the north curb. As Officers E and F approached Sergeant A's police vehicle, Sergeant A placed his/her left arm out of the driver's window to signal to the officers to stop. Officer E stopped their vehicle alongside the driver's side of Sergeant A's vehicle.

Officers E and F contacted Sergeant A through the open passenger side window of their police vehicle. Sergeant A stated that he/she informed Officer F that he/she possibly observed the Subject walking one street west of their location. According to Sergeant A, as he/she communicated with Officers E and F, the Subject was still out of view. Sergeant A stated that he/she did not tell Officers E and F how to stop or deploy on the Subject. Officer E drove west to locate the Subject as Sergeant A followed. According to Sergeant A, he/she followed the officers in a supportive role.

The DICV from Officers E and F's police vehicle captured Officer E entering the southbound turn lane and stopping at an intersection. According to Officer F, he/she observed a male suspect (the Subject) who matched the suspect described in the CD radio call comments, walking south. Officer F advised Officer E of his/her observations.

Officer E observed the Subject walking west on the north sidewalk and Officer E began to drive west. According to Officer E, he/she did not observe any items in the Subject's hands at this time. Officer E stopped the police vehicle along the north curb, behind the Subject, who continued walking west on the sidewalk. Officers E and F opened their respective doors and exited their police vehicle to detain the Subject for further investigation. Officer E partially exited the vehicle. As captured on BWV, he/she placed his/her left foot onto the pavement, while his/her right foot remained within the vehicle. Officers E and F did not update their Code Six (on scene) location with CD.

At 1933:13 hours, Sergeant A broadcast that he/she was Code Six on a possible suspect (the Subject) and provided the location. When Sergeant A broadcast, he/she was in his/her police vehicle in the No. 2 Lane of westbound traffic, behind Officers E and F.

At 1933:18 hours, Officer F's BWV depicts the Subject walking west on the north sidewalk, approximately 38 feet west of Officer F. According to Officer F, he/she ordered the Subject to stop and face the wall, at which time the Subject increased his pace. According to Sergeant A, he/she heard an officer ordering the Subject to stop.

According to Officer E, he/she also gave commands to the Subject and ordered him to get against the wall. The Subject did not comply with his/her commands and continued walking west. According to Officer E, he/she noticed the Subject had both hands in front of his chest area and did not see anything in his hands.

At 1933:20 hours, Officer F activated his/her BWV and told Subject, "Hey, come here." The Subject did not comply with Officer F's commands and continued walking west with both hands not visible and near his front waistband area.

Officer E decided to reposition his/her vehicle further west while Officer F followed the Subject from behind and on foot. Officer E explained that he/she could still provide immediate aid if anything occurred. Officer E wanted to reposition the vehicle to get a better sense of cover and to make it easier to take the Subject into custody; at that moment, Officer E was unsure if the Subject had anything in his hands.

As Officer F followed the Subject on foot, Officer E drove in a westerly direction. As he/she did so, the driver's side door remained open.

According to Officer F, he/she was in tracking mode. Based on the Subject's actions and non-compliance with his/her commands, Officer F believed that the Subject would flee on foot. Officer F was concerned about public safety and wanted to watch the Subject to direct additional resources to the Subject's location if necessary. According to Officer E, he/she was in apprehension mode.

At 1933:29 hours, Sergeant A broadcast a request for a backup. Sergeant A remained in his/her police vehicle and continued to follow the officers as CD broadcast a request for a backup, airship (helicopter), and supervisor. Sergeant A stated that he/she broadcast for a backup because the Subject appeared to be ignoring the officers' commands. Sergeant A stated that he/she did not see anything in the Subject's hands at this time.

In response to the backup request, the following personnel responded: Officers A, B, C, D, G, H, and Sergeant B.

According to Officer F, he/she noticed the Subject making furtive movements toward his right-front pocket area. Officer F told the Subject to take his hands out of his pockets, but the Subject did not comply; therefore, Officer F unholstered his/her pistol. Officer F stated that he/she held his/her pistol in his/her right hand in a low-ready position with his/her index finger along the frame. Officer F's BWV captured the Subject holding an aluminum water bottle in his left hand.

In the interim, Officer E drove west, passed the Subject, and stopped along the north curb, west of the Subject. Officer E exited his/her police vehicle, approached the north sidewalk, and then activated his/her BWV camera. Officer E stated that he/she left the cover of his/her police vehicle because he/she did not see anything in the Subject's hands and wanted to take him into custody.

According to Officer E, when he/she could see the Subject's hands, he/she saw what he/she believed to be a pistol, although it looked "funky." As such, Officer E thought it might be a handmade pistol. Officer E stated that the Subject was holding the possible pistol downward, so he/she re-holstered. Officer E described the possible pistol as being black and silver in color, approximately five to eight inches long, with a pistol grip.

At 1933:34 hours, Officer E's BWV depicts the Subject walking west on the north sidewalk as Officer E told the Subject to get on the wall and asked him, "What's that in your hand." The Subject continued walking west and turned his upper body toward Officer E while raising and pointing a black object toward Officer E. Officer E asked the Subject, "What's that in your hand?" Officer E stated that he/she did not discharge his/her pistol because he/she was not a hundred percent sure that it was pistol in the Subject's hand. Officer E stated that he/she was trying to determine what the object was.

According to Officer F, he/she could see the Subject's back and saw him dig with his right hand around his front waistband/right pocket area and retrieve a black metal object with a silver tip. Officer F stated that he/she initially thought it was a pistol, but after a closer look, concluded that it was not. Officer F tried to watch the Subject because he started to move a little faster, and Officer F opined that he was going to run. Officer F stated that he/she needed to continue tracking the Subject and get some resources.

At 1933:38 hours, Officer F's BWV captured him/her saying, "That's not a gun bro." When asked why he/she made that statement, Officer F stated that it was to reassure himself/herself of what he/she was seeing. When asked why he/she didn't tell Officer E that the Subject was not holding a pistol, Officer F stated that his/her partner was on the other side of the car. Officer F stated that they were both giving commands to the Subject and there were two things going on at once. Although Officer F stated that he/she was not speaking to Officer E when he/she said, "That's not a gun bro," Officer E heard the statement. The Subject increased his pace and continued walking west on the north sidewalk.

In response to the Subject increasing his pace, Officers E and F began to jog in a westerly direction behind the Subject while unholstered. Officer E's BWV captured him/her asking Officer F, "You said that's not a gun?" According to Officer E, he/she believed that Officer F was not seeing what he/she (Officer E) was seeing. Officer E believed that the Subject's object was a pistol.

Simultaneously, Sergeant A observed the Subject increase his pace to a brisk walk as if eluding the officers. Sergeant A stated he/she did not see anything in the Subject's

hands at this time and was cognizant that the Subject was approaching a residential street. Concerned for public safety, Sergeant A accelerated his/her police vehicle from a supportive role, believing that the Subject was about to run from the officers.

According to Sergeant A, his/her intention was to drive down the street, pass the officers, and create enough distance from the Subject to be in a position where he/she could exit his/her vehicle, put everyone in a position of advantage, triangulate on the Subject, and use his/her vehicle for cover. Sergeant A stated that he/she did not intend to contact the Subject.

Sergeant A accelerated his/her vehicle in a westerly direction and passed Officers E and F. According to Sergeant A, as he/she drove past the Subject, he (the Subject) looked in his/her direction and began to manipulate his front midsection area, near his front waistband. Sergeant A stated that he/she could not see the Subject's hands, but it appeared as if he was attempting to retrieve something from his front waistband area.

Sergeant A was cognizant that the comments of the radio call indicated that the Subject was armed with a pistol and possibly a stick, and that Officers E and F were behind the Subject with no cover. Believing that the Subject was attempting to retrieve a weapon from his person, Sergeant A unholstered his/her pistol while seated in his/her moving police vehicle. Sergeant A held his/her pistol in his/her right hand, extended his/her right arm toward the front passenger door in a northerly direction, and pointed the muzzle toward the Subject while placing his/her right index finger along the frame.

BWV then captured the Subject jogging in a westerly direction as Sergeant A drove alongside the Subject in his/her moving vehicle.

According to Sergeant A, he/she watched the Subject as he skipped in a westerly direction. As the Subject approached the northeast corner of an intersection, Sergeant A observed the Subject turn his upper torso and face him/her as his hands were positioned near his front midsection area. Sergeant A stated that he/she looked down and noticed that the Subject had his right elbow bent in a 90-degree angle, resembling a close contact position, while pointing what he/she believed to be a small dark-colored semiautomatic pistol in his/her direction.

According to Officer E, as the Subject approached the intersection, he/she searched for cover but had no immediate objects around him/her. Officer E stated that the Subject was looking back toward him/her and Officer F as the Subject pointed the barrel of the "funky gun" in a downward direction.

Witness C stated that she observed the Subject looking over his shoulder and believed it was to assess where the officers were located.

At 1933:46 hours, Officer F's BWV captured the Subject turning his body in a westerly direction and continuing running, while looking in a southerly direction toward Sergeant A. As the Subject arrived at the northeast corner of the intersection, BWV captured

Officer F saying, "Hey, drop it." The Subject did not comply with Officer F's commands and continued jogging west on the north sidewalk.

Sergeant A stated that as the Subject was facing him/her, he/she immediately recognized the item in his hand as a pistol; and in immediate defense of his/her life, he/she fired one round at the Subject. The investigation determined that at 1933:49 hours, Sergeant A fired one round from his/her pistol in a northerly direction, from a one-handed seated shooting position, from approximately 26 feet -- as he/she drove his/her police vehicle west.

According to Sergeant A, the Subject winced and jerked his body to the side but did not go down. Sergeant A was unsure if his/her round struck the Subject or if he reacted to the sound of the gunfire. According to Sergeant A, the Subject was still facing him/her and he/she believed that there was still a threat. Sergeant stated that he/she still felt that the Subject was in a position to shoot at him/her, so he/she two fired what he/she thought were two to three more rounds.

The investigation determined that Sergeant A fired one additional round at the Subject from a one-handed seated shooting position from his/her moving vehicle. the Subject was struck by gunfire and began to fall forward toward the pavement. Sergeant A estimated that he/she was traveling at between two to three miles per hour as he/she fired, continued driving approximately 10 yards, and then stopped his/her police vehicle. When asked what his/her background consisted of at the time of the OIS, Sergeant A stated that he/she observed an unoccupied vehicle parked in a driveway.

The FID Video Technology Unit (VTU) completed a sound graph analysis of the gunshots utilizing BWV. They determined that Sergeant A fired his/her second round 0.619 seconds after the first round.

From 1933:40 to 1933:50 hours, the mobile data computer (MDC) from Sergeant A's vehicle captured the reflection of Sergeant A's right arm extended.

According to Officer E, in his/her peripheral vision he/she observed a police vehicle traveling west. Officer E then observed the Subject turn toward the arriving police vehicle, lift his hand, and point the barrel of the perceived pistol in a southerly direction toward the police vehicle. Officer E then heard two gunshots and believed that the Subject shot at the police vehicle. Officer E believed that the Subject and Sergeant A each fired one round but was unsure who fired first. The investigation determined that Sergeant A fired both rounds.

As the Subject fell forward following Sergeant A's OIS, Officer E fired one round at the Subject from a standing two-handed shooting position in a westerly direction from approximately 32 feet. The Subject fell onto his stomach with his head facing west, feet facing east, with both hands underneath his upper torso.

Officer E stated that he/she fired because the Subject shot at a police vehicle and he/she was trying to save the life of the officer (Sergeant A). Officer E stated that he/she stopped firing because the Subject fell to the ground. Officer E stated that his/her shooting background consisted of a house and unoccupied vehicle.

An analysis of the BWV determined that Officer E fired his/her round 0.796 seconds after Sergeant A fired his/her second round. All three rounds were fired within 1.415 seconds.

Officer F was asked why he/she didn't shoot, and he/she stated that he/she saw the side view of the object the Subject was carrying and realized it wasn't a pistol. However, Officer F stated that once he/she got closer to the intersection, he/she saw the Subject waving his right hand, and he/she observed a piece of metal in his hand with a silver tip. Officer F stated that was when the shots were fired.

At 1933:52 hours, Officer F broadcast that officers needed help and shots were fired, and Officer F provided the location.

In response to the officer-needs-help broadcast, the following personnel responded: Sergeants C & D and Officers I & J.

Sergeant A exited his/her police vehicle, positioned him/herself to its rear, and pointed his/her pistol in the Subject's direction. At the same time, Officers E and F were positioned at the northeast corner of the intersection, pointing their pistols in the Subject's direction. Officer F's BWV captured Sergeant A advising the officers, "I got the gun right here." Officer F's BWV captured the Subject moving his left arm. Officers E and F began giving the Subject commands and ordered him, "Stop reaching for it!"

In the interim, Officers C and D arrived at the scene. Officer C stopped the police vehicle along the north curb, facing west. Officers C and D exited their vehicle, unholstered their pistols, and took cover behind their respective doors.

Officer D stated that when he/she initially arrived, the Subject was on his stomach, facing away from him/her. Officer D believed that the Subject was trying to access a weapon based on where his hand was underneath him towards his waistband. Officer D stated that at one point it appeared that the Subject might pull a pistol out; therefore Officer D placed his/her finger on the trigger for approximately one second. When the Subject's hand didn't produce anything, Officer D moved his/her finger back to the slide. BWV did not capture Officer D placing his/her finger on the trigger.

As captured on BWV, Sergeant A directed Officers E and F to obtain cover, at which time they repositioned themselves behind the front passenger door of Officers C and D's vehicle.

At 1934:14 hours, Sergeant A activated his/her BWV camera. The investigation determined that Sergeant A activated his/her BWV approximately 25 seconds after firing his/her first round. Therefore, his/her BWV did not capture audio of the OIS.

At 1934:27 hours, Officers A and B arrived at the scene, exited their vehicle, and unholstered their pistols. Officer A then directed Officer B to deploy the beanbag shotgun. Officer B holstered his/her pistol and retrieved the beanbag shotgun from their vehicle. As captured on BWV, Sergeant A told the officers that he/she could not see the Subject's pistol and asked if they could see it. Officer A advised Sergeant A that he/she did not see the pistol. Officer A then directed Officer B to retrieve a shield from their vehicle, which he/she did.

Sergeant A redeployed and positioned himself/herself behind Officers C and D's vehicle as Officers G and H arrived at the scene. Officers G and H exited their police vehicle and joined Officers A, B, D, E, F, and Sergeant A. Officer G unholstered his/her pistol as he/she approached the officers. When Sergeant A requested a shield, Officer G holstered his/her pistol and obtained the beanbag shotgun from Officer B while Officer B maintained control of the shield.

At 1935:10 hours, Officer E's BWV captured the Subject rolling onto his back with both hands now visible.

At approximately 1935 hours, Sergeant A formulated an arrest team consisting of Officers B (shield), E and F (lethal force), H (beanbag shotgun), and A and G (handcuffing). Officers A and G then put on gloves.

At 1935:42 hours, Sergeant B broadcast that he/she was at the scene. At 1936:24 hours, Sergeant A directed the arrest team to approach the Subject. As the team moved toward the Subject, Officer D holstered his/her pistol and joined the arrest team. Sergeant A directed the team to roll the Subject onto his stomach and handcuff him. The arrest team did not don their ballistic helmets.

Sergeant A's BWV captured him/her directing the team to go hands-on and for someone to secure the pistol. Officer A grabbed the Subject's right arm while Officer G held onto the Subject's pants. Officers A and G then rolled the Subject onto his stomach. Officer D utilized his/her left foot and dragged a black metal actuator that was on the street, near the Subject's right arm, in a southerly direction. According to Officer D, he/she still believed the object to be a pistol and wanted to get it out of the Subject's reach. Sergeant A stated that his/her intention was for an officer to secure the perceived pistol [metal actuator] at its discovered position and not move it.

Officer G handcuffed the Subject, placed him in the right-lateral recumbent position, and conducted a pat-down search of his outer clothing.

At 1936:53 hours, Officer I broadcast Code Four, subject in custody.

At 1937:08 hours, Officer D placed a glove on his/her right hand, picked up the black metal actuator from the street, and put it on the front hood of his/her police vehicle.

At 1937:15 hours, Officer E approached Sergeant A and advised him/her that he/she had been involved in the OIS. Sergeant A did not immediately separate, monitor, or admonish Officer E not to discuss the incident prior to being interviewed by FID investigators. When asked why he/she didn't take control of Officer E, Sergeant A stated that he/she knew that he/she had other supervisors on scene and responding as well. Sergeant E stated that he/she was watching Officer E the entire time.

At 1937:32 hours, Officer F broadcast a request for a request for an RA for a male, approximately 40 years old, conscious and breathing, suffering from gunshot wounds.

From the time the last gunshot was discharged until an RA was requested, approximately 3 minutes, 15 seconds had elapsed. From the time the Subject was handcuffed until an RA was requested, approximately 27 seconds had elapsed.

Officer F's BWV captured him/her attempting to broadcast for an RA at approximately 1937:10 hours, but he/she did not complete the broadcast until 1937:32 hours.

After placing the metal actuator on the front hood of his/her police vehicle, Officer D retrieved a clotting gauze package from his/her person and gave it to Officer G. Officer G placed the gauze on the Subject's stomach, believing that was the location where he was struck by gunfire. Officer G then began to render medical aid, as Officer C also assisted in applying pressure to the Subject's stomach.

At approximately 1944 hours, Officer B's BWV captured Los Angeles Fire Department (LAFD) personnel arriving on scene and rendering medical treatment to the Subject.

At 1946:41 hours, Sergeant B broadcast that he/she was on scene and declared himself/herself as the incident commander (IC).

From the time Sergeant B broadcast that he/she was at the scene until he/she declared himself/herself as the IC, approximately 10 minutes, 59 seconds had elapsed. When asked by FID investigators why there was a delay, Sergeant B replied that it appeared that Sergeant A was taking command of the scene and he/she was not aware that Sergeant A was involved at that point. Sergeant B stated that during the time that Sergeant A was leading the contact arrest team, and not until after he/she was identified as one of the involved officers, did he/she (Sergeant B) start taking actual command of the scene.

At approximately 1950 hours, the RA transported the Subject to a nearby hospital. Officers G and H followed the RA in their police vehicle. The Subject was admitted to the hospital and treated by doctors for two gunshot wounds.

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	No	Yes	Yes	No	No
Officer E	Yes	Yes	Yes	Yes	Yes
Officer F	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

The BOPC found the tactics of Officers E, F, and Sergeant A to warrant Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found the drawing and exhibiting of a firearm by Officers E, F, and Sergeant A to be In Policy.

C. Lethal Use of Force

The BOPC found Sergeant A's lethal use of force to be Out of Policy. The BOPC found Officer E's lethal use of force to be In Policy.

Basis for Findings

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

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications,

and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

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

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

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race,

religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the 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, suspects, persons in custody, subjects 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 Subject leading up to the use of force.

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

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

A. Tactics

Tactical De-Escalation

Tactical De-Escalation 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 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 – The date of this incident was the first time Officers E and F worked together. At the start of their watch, Officers E and F responded from the station to an unrelated backup request during which they briefly discussed contact and cover roles.

Assessment, Time, and Redeployment/Containment – Officer F exited his/her police vehicle and approached the Subject. Officer E drove past Subject, exited the police vehicle, and approached him on foot. When Subject refused to stop, Officers E and F followed him on foot. According to Officer F, he/she initially thought that the object in Subject's hand was a pistol, but after a closer look concluded that it was not. Based on his/her assessment, Officer F determined that he/she needed to track the Subject and obtain resources. According to Officer E, as the Subject approached an intersection, he/she searched for cover but had no immediate objects around him/her. Officer E stated that the Subject was looking back toward him/her and Officer F as he/she pointed the barrel of a "funky gun" in a downward direction. Officer E had overheard Officer F say that the object was not a gun; however, he/she was not sure if Officer F's assessment was correct.

Observing the Subject walking away from the officers, Sergeant A drove past them to triangulate on the Subject and stop his progress. Sergeant A had observed the Subject increase his pace to a brisk walk as if eluding the officers. Sergeant A stated that he/she did not see anything in the Subject's hands at this time and was cognizant that the Subject was approaching a residential area. Sergeant A was concerned for public safety and believed that the Subject was about to run from the officers.

According to Sergeant A, as he/she drove past the Subject, the Subject looked in his/her direction and began to manipulate his front midsection area, near his front waistband. It appeared to Sergeant A that the Subject was attempting to retrieve something from his front waistband area. Sergeant A was cognizant that the

comments of the radio call indicated that the Subject was armed with a pistol and possibly a stick. Observing the Subject point what appeared to be a semi-automatic pistol in his/her direction, Sergeant A assessed an imminent lethal threat, at which point the OIS occurred. Observing the Subject point an object toward Sergeant A's police vehicle and hearing gunfire, Officer E assessed that the object was a pistol and the Subject posed an imminent lethal threat to the sergeant. The Subject's actions limited the officers' ability to de-escalate the situation at that point. After the OIS, the officers maintained their distance and used cover while developing a plan to safely apprehend the Subject and render aid.

Other Resources and Lines of Communication – Sergeant A hailed Officers E and F and directed them to the Subject's location. Contacting the Subject, Officers E and F ordered him to stop and asked him what was in his hand. The Subject was nonresponsive and refused to stop. As the officers followed the Subject, Officer F stated, "That's not a gun bro." Although Officer F stated that he/she was not speaking to his/her partner, Officer E heard the statement and responded, "You said that's not a gun?" According to Officer E, he/she wanted to ensure that Officer F's assessment was correct.

Observing the Subject walking away from the officers, Sergeant A requested backup units. As the Subject arrived at the northeast corner of the intersection, Officer F stated, "Hey, drop it." The Subject did not comply with Officer F's commands and continued jogging west on the north sidewalk. After the OIS, Officer F broadcast an officer help call, advising that shots had been fired.

The BOPC considered that the Use of Force Review Board (UOFRB) noted that although Officers E and F briefly discussed contact and cover roles while responding to a prior backup call, they did not discuss tactics specific to this incident nor did they discuss a plan before approaching the Subject. Additionally, Sergeant A did not discuss a tactical plan with Officers E and F before they approached the Subject. Based on the totality of the circumstances, the UOFRB felt that Officers E, F, and Sergeant A had ample opportunities to discuss tactics and formulate a tactical plan before contacting the Subject.

The UOFRB noted that upon contacting the Subject, Officer F exited his/her police vehicle and approached the Subject without cover. Meanwhile, Officer E drove past the Subject, exited the police vehicle, and approached him on foot without cover. When the Subject refused to stop, Officers E and F followed him on foot without the benefit of cover. According to Officer E, he/she was in apprehension mode; however, the UOFRB did note that he/she did not appear to be attempting to overtake the Subject. Regardless, based on the nature of this call, the UOFRB would have preferred that Officers E and F had used their police vehicle as cover while issuing commands to the Subject, requesting additional resources, and monitoring his direction of travel until the additional resources arrived.

Observing the Subject walking away from the officers, Sergeant A closed the distance and drove alongside the Subject. Based on the nature of this call, the UOFRB would have preferred that Sergeant A had not driven alongside the Subject. Rather, the UOFRB would have preferred that Sergeant A had pulled up to the officers and directed them to use his/her police vehicle as cover while issuing commands to the Subject, requesting additional resources, and monitoring his direction of travel until the additional resources arrived. The UOFRB did note that Sergeant A requested backup units; however, they also noted that he/she did not wait for those backup units to arrive before approaching and driving alongside the Subject.

The UOFRB noted that as Officer F followed the Subject on foot, he/she remarked that the object the Subject was holding was not a pistol. Although Officer E overheard Officer F, the UOFRB would have preferred that he/she had communicated his/her observations and beliefs to Officer E and ensured that his/her partner understood. The UOFRB did note the officers' rationale for quickly initiating contact with the Subject. Although the Subject was headed toward a residential neighborhood, the UOFRB believed that the officers' concerns did not warrant the tactics they employed.

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

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

Debriefing Point No. 1 Code Six/Updated Location

At approximately 1929 hours, Officers E and F arrived at the scene and placed themselves Code Six via their police vehicle's MDC. Searching for the Subject, Officers E and F located him near an intersection approximately 0.2 mile away from their original Code Six location. However, they did not advise CD of their updated location.

The BOPC noted that the UOFRB assessed Officers E and F's adherence to the Department's Code Six policy. The UOFRB noted that while the officers had notified CD that they were Code Six at the original call location, they did not update their Code Six location when they located the Subject. The UOFRB did note that Sergeant A was behind the officers and that he/she advised CD of his/her updated location; however, he/she did not advise CD that Officers E and F were with him/her.

During their assessment, the UOFRB noted that the purpose of the Code Six policy is for officers to advise CD of their location and the nature of their activity, should the incident necessitate the response of additional personnel. The UOFRB also noted that before the OIS, Sergeant A broadcast a request for backup units. While it is clear that responding units would have located Officers E and F, it is only because of

Sergeant A's broadcasts. Additionally, the UOFRB saw nothing that prevented Officers E and F from updating their location, even if only to advise CD that they were with Sergeant A.

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

Debriefing Point No. 2 Pedestrian Stop Tactics

Locating the Subject walking westbound near an intersection, Officer F exited the police vehicle and directed the Subject to stop, while Officer E drove past the Subject to triangulate on him. Officer E then stopped, exited the police vehicle, and joined Officer F as he/she continued to follow the Subject; both officers followed the Subject without the benefit of cover. As Officers E and F followed the Subject on foot, Sergeant A drove his/her police vehicle past the Subject. Sergeant A intended to triangulate on the Subject with the officers.

The BOPC noted that the UOFRB assessed the tactics employed by Officers E, F, and Sergeant A. As it pertains to Officers E and F, the UOFRB noted that when they located the Subject, they did not request additional resources, specifically air (helicopter) support and additional two-officer units. The UOFRB also noted that when Officer F exited the police vehicle to contact the Subject, he/she failed to exploit the cover afforded by his/her police vehicle's ballistic door panels. As Officer F approached the Subject, Officer E drove past him, exited the police vehicle, and approached the Subject on foot. In doing so, Officer E failed to exploit the cover afforded by his/her police vehicle. This was especially problematic as the Subject appeared to point the object at Officer E as the Subject walked past him/her. The UOFRB noted that instead of returning to their police vehicle or seeking cover, the officers chose to follow the Subject on foot. While there were a few trees in the parkway, the officers did not appear to make use of what little cover they were afforded. Based on the totality of the circumstances, the UOFRB believed that Officers E and F should have remained at their police vehicle, awaited additional resources, and employed high-risk pedestrian stop tactics when contacting the Subject.

As it concerns Sergeant A, while the UOFRB appreciated his/her concerns regarding the residential neighborhood and busy street, as noted above, his/her decision to drive past the Subject unnecessarily placed him/her at a significant tactical disadvantage. Instead, the UOFRB would have preferred that he/she had slowed the incident by communicating with his/her officers and ensuring that high-risk pedestrian stop tactics were employed.

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

Debriefing Point No. 3 Shooting from a Moving Vehicle

Intending to pass the Subject to triangulate on him, Sergeant A drove alongside the Subject at what he/she estimated to be two to three miles per hour. As he/she did so, Sergeant A observed the Subject point what appeared to be a semi-automatic pistol in his/her direction. In response, Sergeant A discharged two rounds at the Subject through the open front passenger side window of his/her police vehicle. The BOPC noted that the UOFRB assessed Sergeant A's tactics as it pertains to shooting from a moving vehicle. The UOFRB noted that per Department policy, firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with the policy regarding lethal use of force. However, the UOFRB also noted that per the policy, one of the factors that may be considered is whether there were no reasonable or apparent means of escape for the officer. While it could be argued that Sergeant A found himself/herself in an exigent circumstance when the Subject appeared to point a pistol at him/her, the UOFRB determined that Sergeant A created the exigency when he/she elected to approach and drive alongside the Subject, escalating the situation. The UOFRB also determined that this election was inconsistent with the Department's policy regarding lethal use of force as Sergeant A failed to use available resources and techniques, specifically maintaining his/her distance from the Subject.

During the UOFRB, a subject matter expert from Training Division testified that shooting from a moving vehicle is generally utilized during anti-ambush situations. During their deliberations, the UOFRB noted that Sergeant A had previously been assigned to dignitary protection duties, during which he/she likely received anti-ambush training. Regardless, the UOFRB determined that this was not an ambush-type situation and the tactics Sergeant A employed unnecessarily placed him/her at a significant tactical disadvantage.

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:

Additional Tactical Debrief Topics

Basic Firearms Safety Rules – While seeking cover behind the passenger door of Officer C's police vehicle, Officer F may have briefly covered Officer E with the muzzle of his/her pistol; however, the evidence was inconclusive.

Observing the Subject's hands moving near his waistband, Officer D believed that he was retrieving a pistol. In response, Officer D placed his/her finger on the trigger

of his/her pistol for approximately one second. Officer D indicated that he/she would have shot had the Subject brought out a pistol.

Rendering Aid – After the OIS, Sergeant A began to formulate an arrest team. Approximately two and a half minutes later, the arrest team apprehended the Subject. As officers rendered aid, Officer F requested an RA. To expedite the RA's response to the scene, officers could have requested one shortly after the OIS and advised them to stage nearby.

Protocols Subsequent to a CUOF – After Officer E notified Sergeant A of his/her involvement in the OIS, Sergeant A did not immediately cause him/her to be separated and monitored, nor did he/she admonish Officer E to not discuss the incident.

IC Declaration – Sergeant A did not declare himself/herself as the IC. Sergeant B declared himself/herself as the IC approximately 11 minutes after his/her arrival. Alternatively, Sergeant A should have declared himself/herself as the IC and then requested that Sergeant B assume command when he/she arrived.

Command and Control

Sergeant A was on the scene before, during, and after the OIS. After the OIS, Sergeant A directed Officers E and F to seek cover, requested officers to retrieve a ballistic shield, and organized an arrest team. Sergeant B arrived on the scene before the Subject was taken into custody. After the Subject was taken into custody, Sergeant A coordinated efforts to block traffic. Sergeant B identified the involved employees and assigned Sergeant C to monitor Sergeant A. Sergeant C collected Sergeant A's BWV and obtained his/her public safety statement (PSS). Sergeant B assigned Sergeant D to monitor Officer E. Sergeant D collected Officer E's BWV and obtained his/her PSS. Officer F was initially assigned to be monitored by an uninvolved officer until the arrival of Detective A. Sergeant E responded and relieved Detective A and monitored Officer F. The Department Operations Center (DOC) was notified at 2000 hours.

The BOPC noted that the UOFRB assessed Sergeant A's command and control. The UOFRB noted that before the OIS, Sergeant A did not develop a plan with Officers E and F on how to approach the Subject, nor did he/she attempt to slow the incident when he/she saw the officers following the Subject without cover. Although Sergeant A requested backup units, he/she chose to approach the Subject instead of waiting for additional resources to arrive. The UOFRB opined that Sergeant A's vehicle deployment and involvement with the Subject contributed to a lack of supervisory oversight before the OIS.

As it pertains to Sergeant A's post-OIS command and control, the UOFRB noted that he/she ensured that officers used cover as they waited for additional resources to arrive and formulated an arrest team. Sergeant A requested a ballistic shield,

developed a plan to safely apprehend the Subject, and assigned roles. The UOFRB believed that Sergeant A's plan to apprehend the Subject and render medical aid was promptly and prudently carried out.

Regarding Sergeant B, while the UOFRB would have preferred that he/she had identified himself/herself as the IC sooner, they believed that his/her post-OIS command and control were good. The UOFRB noted that he/she identified the involved employees and ensured that they were separated and monitored.

The BOPC determined that Sergeant B's actions overall were consistent with Department supervisory training and expectations of a supervisor during a critical incident. BOPC also determined that Sergeant A's overall actions were not consistent with Department supervisory training and expectations of a supervisor during a critical incident.

Drawing/Exhibiting

- **Officer E**

According to Officer E, he/she observed what he/she believed to be a pistol in the Subject's hand. Based on the comments of the radio call and his/her observations, Officer E formed the opinion the Subject was armed. Believing that the situation could escalate to the point where lethal force may be justified, Officer E unholstered his/her pistol.

- **Officer F**

According to Officer F, the comments of the radio call indicated that the Subject was armed with a pistol. Contacting the Subject, Officer F observed him making "furtive movements" toward his waistband/right pocket area. Believing that the Subject may be armed with a pistol and that the situation may escalate to the use of lethal force, Officer F unholstered his/her pistol.

- **Sergeant A**

Sergeant A was cognizant that the comments of the radio call indicated that the Subject was armed with a pistol or a stick. According to Sergeant A, as he/she drove alongside the Subject, he/she observed him retrieving something from his waistband. Believing the Subject was attempting to retrieve a weapon, Sergeant A unholstered his/her pistol, in case he/she had to use lethal force.

The BOPC noted that the UOFRB assessed Officers E, F, and Sergeant A's drawing and exhibiting of their pistols. The UOFRB noted that Officers E and F responded to a radio call in which it was reported that the Subject was armed with a pistol. When the officers located the Subject, he failed to comply with their commands and Officer E observed an object in his hand which he/she believed to be a pistol. While Officer F did

not initially see the object in the Subject's hand, he/she observed him making furtive movements near his waist/pocket. Based on the totality of the circumstances, the UOFRB opined that it was reasonable for Officers E and F to believe the situation may escalate to the point where lethal force may be justified. Additionally, although Officer F subsequently expressed his/her belief that the object in Subject's hand was not a pistol, the true nature of the object was still unknown. As such, the UOFRB felt it was prudent for the officers to remain unholstered.

As it pertains to Sergeant A, the UOFRB noted that as he/she drove alongside the Subject, the Subject appeared to focus his attention on Sergeant A and his/her police vehicle. The Subject turned his body in the Sergeant's direction and started to make movements toward his waistband; Sergeant A was cognizant that the comments of the call indicated the Subject may be armed with a pistol. Believing the Subject was attempting to retrieve a weapon, Sergeant A unholstered his/her pistol. Per Sergeant A, he/she unholstered his/her pistol in the event he/she had to use lethal force. Based on the totality of the circumstances, the UOFRB opined that it was reasonable for Sergeant A to believe the situation may escalate to the point where lethal force may be justified.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers E, F, 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 E, F, and Sergeant A's drawing/exhibiting to be In Policy.

Lethal Use of Force

- **Sergeant A** – Pistol, two rounds in a northerly direction, from approximately 26 feet.

Background – According to Sergeant A, his/her background consisted of an unoccupied vehicle parked in a residential driveway.

According to Sergeant A, he/she watched the Subject walking quickly in a westerly direction. As the Subject approached the northeast corner of an intersection, Sergeant A observed him turn his upper torso and face him/her as his hands were positioned near his front midsection area. Sergeant A stated that he/she looked down and noticed that the Subject had his right elbow bent in a 90-degree angle, resembling a close-contact position, while pointing what he/she believed to be a small dark-colored semiautomatic pistol in his/her direction. In defense of his/her life, Sergeant A discharged one round at the Subject from his/her pistol.

Round Two

After Sergeant A discharged his/her first round, he/she believed that the Subject still posed a lethal threat. The Subject did not "go down" and was still positioned to shoot him/her. In response, Sergeant A discharged a second round.

Although Sergeant A believed that he/she discharged three or four rounds during this incident, the FID investigation determined that he/she discharged two rounds.

The BOPC noted that the UOFRB assessed Sergeant A's lethal use of force. The UOFRB noted that Sergeant A had observed the Subject positioned similarly to a close-contact shooting position, while pointing what he/she believed to be the barrel of a small dark-colored semiautomatic pistol in his/her direction. Based on his/her observations, Sergeant A believed that if he/she did not fire first, the Subject would shoot him/her. In defense of his/her life, Sergeant A discharged one round at the Subject and assessed. Observing that Subject was still standing and positioned to shoot him/her, Sergeant A discharged his/her second round. Based on the totality of the circumstances, the UOFRB opined that it was reasonable for Sergeant A to believe that the Subject posed an imminent lethal threat, and that lethal use of force was proportional and objectively reasonable. However, as noted in the review of his/her tactics, Sergeant A's decision to approach and drive alongside Subject escalated the situation and created the exigent circumstance which led to the lethal use of force. Also, Sergeant A's decision to shoot from a moving vehicle, as noted in Debriefing Point No. 3, was inconsistent with the Department's policy regarding lethal use of force. As such, the UOFRB determined that Sergeant A's lethal use of force was not necessary.

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

- **Officer E** – Pistol, one round in a westerly direction, from approximately 32 feet.

Background – According to Officer E, his/her background consisted of a residential structure and an unoccupied vehicle.

According to Officer E, in his/her peripheral vision, he/she observed a police vehicle traveling west. Officer E then observed the Subject turn toward the police vehicle, lift his hand, and point the barrel of a pistol toward the police vehicle. Officer E then heard two gunshots and believed that both the Subject and Sergeant A were exchanging gunfire. In defense of the Sergeant's life, Officer E discharged one round from his/her pistol at the Subject.

The BOPC noted that the UOFRB assessed Officer E's lethal use of force. The UOFRB noted that despite Officer F's suspicion, Officer E was unsure whether the object in Subject's hand was a pistol. However, observing the Subject point the object toward Sergeant A and hearing gunfire, Officer E was convinced that the item was a pistol and that the Subject and Sergeant A were shooting at each other. In defense of Sergeant A's life, Officer E discharged one round at the Subject. Based on the totality of the circumstances, the UOFRB opined that it was reasonable for Officer E to believe that

the Subject was armed with a pistol and that he posed an imminent lethal threat to Sergeant A.

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