

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

OFFICER-INVOLVED SHOOTING 038-23

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No( )</b>
77 <sup>th</sup> Street	8/13/23		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	11 years, 9 months
Officer C	5 years, 4 months
Officer D	4 years, 11 months
Officer E	6 years, 4 months
Officer G	7 years, 11 months
Officer I	4 years, 2 months

**Reason for Police Contact**

Officers responded to a radio call of a “Possible Attempt GTA suspect there now.” Officers encountered the Subject armed with a pistol and ordered the Subject to drop his weapon. The Subject refused to comply with the officers’ commands and was shot with the 40mm Less Lethal Launcher (40mm LLL). The Subject continued to refuse to drop his pistol and pointed it at officers, resulting in an Officer Involved Shooting (OIS).

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Male, 25 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 suspect 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 July 23, 2024.

## **Incident Summary**

On Sunday, August 13, 2023, Victim A called Communications Division (CD) to report an attempted car theft. According to Victim A, an unknown man, later identified as the Subject, was trying to steal his black Toyota 4Runner parked in the driveway of his residence. Victim A described the suspect as a Hispanic male.

CD broadcast the following radio call, "Any 77th unit, possible attempt GTA, [...]. Suspect is a male Hispanic sitting inside of the PR's black Toyota 4Runner, License Plate [...]. Suspect is unknown to the PR. The comments of the call indicated that the Subject had been locked in the vehicle by the Victim.

CD received a second and a third call for service from Victim A and his spouse, expressing their frustration with the delay in response. Victim A informed CD that the Subject was still inside his black Toyota 4Runner parked in the driveway of his residence.

Officers A and B requested the call be assigned to them. Officer A was a Field Training Officer (FTO) for Officer B who was a probationary Officer. According to Officer A the plan was to walk up on the car, illuminate it, see if they can see who's inside and order the Subject out.

According to Officer A's BWV, they arrived and parked their police vehicle south of the Subject's location, Officer B placed themselves Code Six. Officer B pointed to the black Toyota 4Runner parked in the driveway of the Victim's home and confirmed with Victim A that the Subject was still in the car. Officer B entered the front yard through the opened wrought iron gate. Victim A walked up to the front porch of his residence and stood at the doorway with his family, while Officer A followed Officer B into the front yard.

Officer B approached the black Toyota 4Runner parked in the driveway, holding his/her flashlight in his/her left hand and illuminated the driver's side of the vehicle.

According to Officer B, he/she used his/her flashlight to illuminate the car but could not see inside due to the heavy tint on the windows. The residents informed them that the Subject was still in the car. Officer A told him/her to approach the car and open the door.

According to Officer A's BWV, Officer B tried to open the door of the black Toyota 4Runner, but it was locked. Victim A unlocked the vehicle using a remote key. Officer B pulled the driver's side door open and moved back with the door in front of him/her. Meanwhile, Officer A stood next to the driver's door and shined his/her flashlight illuminating the interior of the vehicle. The Subject, who was seated in the rear seat, produced a pistol and pointed it at Officer B. The Subject pulled the pistol back and retreated to the rear seat out of view.

According to Officer A, As soon as Officer B opened the door, he/she could see the Subject point a black handgun at them from the back seat.

Officer A issued repeated commands to the Subject, instructing him to "drop it." Officer A unholstered his/her firearm and pointed it toward the Subject as he/she redeployed to the sidewalk. At the same time, Officer B unholstered his/her firearm, aimed it at the Subject and redeployed to the sidewalk with Officer A. Officer A broadcast, a request for a backup for a male with a gun at the location.

Officer A conducted an additional broadcast and provided details regarding the Subject's location within the vehicle to responding units. He/she continued to issue multiple commands to the Subject and ordered him to "drop the gun".

The following additional officers responded to the backup and were at scene during the OIS: Officers C, D, E, F, G, H, I and J.

While on their way to the location, Officer C prepared the 40mm LLL. Upon arrival, Officers C and D were directed by Officer A to the front of location. They positioned their police vehicle north of the driveway, where the victim's black Toyota 4Runner was parked, and pointed the police vehicle's headlights and spotlights toward the vehicle.

According to Officer A's BWV, he/she directed Officer B to redeploy to the cover of the car. Officer B moved from his/her initial position to behind Officer D, who was behind the driver-side door of his/her police vehicle. As additional units arrived, Officer B announced that the Subject had a gun.

Upon arrival, Officers E and F placed their police vehicle north of the black Toyota 4Runner and left of Officers C and D's vehicle facing south. Officer F illuminated the driver's side portion of the black Toyota 4Runner by turning on the passenger side spotlight. He/she then exited the passenger side of his/her police vehicle and unholstered his/her firearm. Simultaneously, Officer E deployed the shotgun and chambered a round. He/she walked behind his/her police vehicle and positioned himself/herself next to Officer C.

Officer F's BWV shows the Subject's hand can be seen raised above the black Toyota 4Runner's driver-side door holding an object, although the Subject's entire body is not visible at this point. Officer A can be heard in the background over the public address system (PA), ordering the Subject to exit the vehicle.

As the Subject sat in the vehicle and held the pistol above the front door, Officer C can be heard in the background shouting, "He's pointing it, he's pointing it!" The Subject then placed his hand back inside the vehicle while officers continued to give him commands in English.

Sergeant A arrived and placed his/her police vehicle on the street in front of the location. Sergeant A advised officers at scene to stay behind cover. He/she requested

additional units to shut down nearby traffic and Los Angeles Fire Department (LAFD) to respond and stage nearby.

According to Officer G, As he/she arrived on scene Sergeant A directed him/her in next to his/her police vehicle and pointed in the direction of the Subject. Officer G exited the police vehicle, unholstered his/her firearm and pointed it toward the Subject. Officer H exited the passenger side of the vehicle and deployed with the shotgun.

Sergeant B arrived and assisted Sergeant A directing officers on the north side of the incident. Sergeant B's BWV captured him/her directing Officer H to redeploy since there were too many officers on the north side. Sergeant B walked to the driver's side of Officer C's police vehicle and ordered Officer B to secure his/her weapon and be part of the arrest team. Officer B holstered his/her firearm and remained positioned behind Officer D.

Sergeant B directed Officer J to take cover behind the police vehicle as he/she formed the arrest team. He/she instructed the officers behind him/her to stay behind cover and ensured only one officer gave commands to the Subject.

Officer A continued to give the Subject commands to drop the gun on the ground. Officer A used the police vehicle's PA system to instruct the Subject to drop the weapon and get out of the car. After approximately five minutes of giving the Subject commands in English, Officer A requested a Spanish speaker. Officer I, who had just arrived, positioned himself/herself to the right of Officer E and began giving the Subject commands in Spanish as Officer A holstered his/her firearm and deployed the 40mm LLL.

The Subject stepped out of the vehicle and walked a few steps north toward the front yard of the house while holding a pistol in his left hand. He turned toward the officers, with his arms up and extended out, holding a shoe over his head with his right hand and the pistol in his left. The Subject turned around, and walked back toward the black Toyota 4Runner. Officer A announced, "40 Standby," and Officer I warned the Subject in Spanish that he would be shot.

Officer C announced that the Subject was "Pointing," and Officer A fired one 40mm LLL round, missing the Subject. Officer I continued to give the Subject commands, which the Subject ignored as he continued pacing back and forth with the gun in his hand. Officer A again announced, "40 Standby," loaded a round and fired a second 40mm LLL round, striking the Subject's left side.

Officer I continued to give commands in Spanish to drop the pistol. Officer A announced for a third time "40 Standby" and fired a third 40mm LLL round again striking the Subject's left side.

According to Officer I, after the Subject was struck with the 40mm LLL, he ran towards the driveway hiding behind a metal fence. He/she could still see through the metal

fence as the Subject crouched down. Officer I continued to give him commands to drop the gun, which he failed to do. At this point, the Subject turned towards Officer I.

The Subject crouched down in front of the black Toyota 4Runner parked behind a black gate. According to several officers, the Subject pointed the pistol in their direction resulting in the OIS.

The following events unfolded rapidly, and officers' actions occurred simultaneously.

### **Officer C's account of the OIS. Rounds One and Two**

According to Officer C, the Subject changed the way he/she was holding the gun by the barrel to a regular pistol grip with his finger along the trigger or the trigger guard.

Officer C fired one shot at the Subject because, the Subject pointed his gun at the officers, and he/she was afraid that if he/she didn't address the threat he/she or his/her partner could be shot. Officer C assessed after the first round and fired a second round because, he/she recognized that the Subject was still pointing the gun at them.

According to Officer C after he/she fired the second round, he/she stopped as the Subject was not pointing the firearm at them anymore.

The investigation determined Officer C fired two rounds from his/her .45 caliber Glock, Model 21, semiautomatic pistol from an approximate distance of 41 feet.

### **Officer D's account of the OIS. Rounds One through Six**

According to Officer D, the Subject crouched down facing the officer and pointed the firearm at him/her. He/she could clearly see the barrel of the gun pointed at him/her. At the same time, he/she heard an officer yell that the Subject was pointing the gun. Officer D fired his/her first shot. The Subject continued to point the gun at him/her as Officer D fired four more rounds. Officer D fired a sixth and final round because, the Subject was still holding the gun. When the Subject dropped the gun and fell to the ground Officer D stopped firing.

### **Officer E's account of the OIS**

According to Officer E the Subject was in kneeling position in front of the vehicle and behind the gate. The Subject raised the firearm towards the officers. At that point Officer E believed the Subject was agitated and in pain from the deployment of the 40mm LLL and possibly under the influence of narcotics.

Officer E believed that either he/she or one of his/her colleagues was about to be shot by the Subject. He/she took one shot from his/her shotgun towards the Subject.

According to Officer C's BWV, Officer E placed and kept his/her finger on the trigger for approximately 1 minute prior to the OIS. When interviewed Officer E could not recall if his/her finger was on the trigger for an extended period prior to the shooting.

The investigation determined Officer E fired one round from his/her Remington 870 shotgun from an approximate distance of 39 feet.

**Officer G's account of the OIS. Round One and Two**

According to Officer G, he/she saw the Subject pointing the firearm in a northerly direction. He/she alerted the officers to the north and shouted, "He's pointing." He/she heard multiple gunshots and was conscious to avoid contagious fire however the Subject started to turn and the muzzle of his firearm was facing right towards officers. At this time he/she fired one round. The Subject continued to turn toward officers and Officer G fired a second round. The Subject went down and Officer G stopped firing when the threat had ceased.

The investigation determined Officer G fired two rounds from his/her .40 caliber, Smith and Wesson, Model M&P, semiautomatic pistol from an approximate distance of 37 feet.

**Officer I's account of the OIS**

According to Officer I the Subject crouched down and turned towards the officers with the firearm. As the Subject pointed the firearm at him/her he/she can hear an officer yelling "He's pointing it. He's pointing it." Officer I saw the Subject pointing the firearm at not only himself/herself but also colleagues and he/she shot one time with the shotgun at the Subject to eliminate the deadly threat. Officer I believed that the Subject was going to shoot at the officers.

The investigation determined Officer I fired one round from his/her Remington 870 shotgun from an approximate distance of 36 feet.

After the OIS, Sergeant A's BWV captured him/her immediately broadcast an Officer needs help call and requested two additional units with shields. Sergeant B formed an arrest team and the Subject was taken into custody without incident. Located near his feet was a spring-powered BB gun . Officers performed first aid on the Subject while awaiting LAFD. LAFD Rescue Ambulance (RA) arrived at the scene and the Subject was declared deceased at the scene.

**BWV and DICVS Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT

Officer A	Yes	Yes	Yes	Yes	Yes
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 G	Yes	Yes	Yes	Yes	Yes
Officer I	Yes	Yes	Yes	Yes	Yes
Sergeant A	Yes	Yes	Yes	Yes	Yes
Sergeant B	Yes	Yes	Yes	Yes	Yes

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

The BOPC reviews each Categorical Use of Force 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 the instant case, the BOPC made the following findings:

#### **A. Tactics**

The BOPC found Officers A, B, C, D, G and I, and Sergeants A and B's tactics to warrant a finding of Tactical Debrief and found Officer E's tactics to warrant a finding of Administrative Disapproval.

#### **B. Drawing/Exhibiting**

The BOPC found Officers A, B, C, D, E, G and I and Sergeant A's drawing and exhibiting 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 C, D, E, G and I's Lethal Force to be In Policy.

### **Basis for Findings**

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

enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

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

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

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

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

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

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



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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

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

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

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

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

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

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

**Rendering Aid:** After any use of force, officers shall immediately request a RA 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, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and

- To the level of equipment available to the officer at the time assistance is needed.

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

**Shooting at or From Moving Vehicles:** It is the policy of this Department that firearms shall not be 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 officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be 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 involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

#### Tactical De-Escalation Techniques

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

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

**Planning** – At the time of the incident, Officer A was Officer B's Field Training Officer (FTO) and they had been partners for approximately six weeks. During those times, they had discussed tactics, specifically contact and cover roles as well as applying different force options. Upon making their approach to the vehicle, Officers A and B discussed a plan which involved opening the vehicle door, illuminating the interior of the vehicle and ordering the Subject out from within.

The UOFRB discussed Officers A and B's initial planning in approaching the vehicle which will be further addressed under Additional Tactical Debrief Topics - Tactical Planning/ Investigative Stops. While enroute to the location, Officer C prepared the 40mm LLL, in anticipation of being assigned a less-lethal role. Upon arrival, Officers C and D were directed by Officer A to position their vehicle north of the driveway and point the police vehicle's headlights and spotlights toward the 4Runner.

After the OIS, officers approached the Subject and, in doing so, the UOFRB noted Officer A enacted a plan to move the Subject slightly away from the handgun to handcuff him and proceed with life saving measures. The UOFRB would have

preferred Officer A communicated a plan which involved moving the Subject further away, thus minimizing the officers' exposure as first aid treatment was being provided in conjunction with officers still trying to clear the vehicle.

**Assessment** – In exiting their police vehicle, Officer A approached a similar vehicle parked alongside the street while Officer B observed Victim A's attempts to waive them down. Officer B's assessment of the scene allowed them to quickly orientate to the correct vehicle.

As the Subject pointed the handgun towards the officers' direction, Officers C, D, E, G and I assessed the need for lethal force and continued to assess throughout the entirety of the OIS.

**Time, Redeployment and/or Containment** – Encountering the Subject armed with a handgun, Officer B redeployed out of the front yard and behind the cover of a large tree while Officer A redeployed behind a wrought iron fence. As additional units arrived, Officers A and B redeployed for a second time behind the police vehicle which afforded them a better position of cover. Additionally, arriving officers positioned their police vehicles apart and at a distance to maintain containment and visual on the Subject.

While at scene, Sergeant B repositioned Officer E behind the door of the police vehicle for better cover.

**Other Resources** – Officer A requested a backup prompting the response of additional resources. Officer A also deployed the 40mm LLL as a de-escalation tool. Officers on scene used their vehicle spotlights and flood lights to illuminate the Subject and his location. Sergeant A requested LAFD respond and stage nearby and for responding units to conduct street closures within the involved area. After the OIS, Sergeant A broadcast a help call. Officer F requested the response of LAFD personnel to provide medical attention to the Subject.

**Lines of Communication** – While responding to the location, Officer B read the comments of the call to Officer A. When requesting a backup, Officer A broadcast their location and provided a direction of travel to responding units. In doing so, responding units were able to plan their approach and tactically deploy their police vehicles.

After opening the vehicle, Officer A unholstered his/her handgun and gave commands to the Subject directing him to drop the handgun, simultaneously alerting his/her partner officer that the Subject was armed. As additional units arrived, Officer B communicated the Subject had a handgun.

To ensure the Subject could hear the commands being given to him, Officer A utilized the Public Address System (PA) of the police vehicle. In identifying a potential language barrier, Officer I attempted to communicate with the Subject in

Spanish. Throughout the incident, officers relayed their observations out loud to make each other aware of the Subject's actions. Prior to each 40mm LLL discharge, an announcement was made to alert the other officers at scene of the deployment.

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

### **Debriefing Point No. 1 Basic Firearms Safety Rules**

Prior to the Subject pointing his handgun in the direction of officers, Officer E can be seen on body worn video placing and keeping his/her finger on the trigger of his/her Department issued shotgun for an extended period. According to Officer E, he/she did not recall if his/her finger was on the trigger prior to the shooting.

The UOFRB assessed Officer E's adherence to the Basic Firearm Safety Rules during a tactical incident. In their assessment, the UOFRB noted Officer E kept his/her finger on the trigger for approximately 58 seconds. The UOFRB opined Officer E's finger on the trigger for a prolonged period was a clear violation of the basic firearms safety rules. The UOFRB also noted Officer E did not recall if his/her finger was on the trigger prior to shooting. In not being able to provide an articulable reason, the UOFRB opined Officer E subconsciously placed his/her finger on the trigger where it lingered for nearly one minute, during which time Officer E formed no apparent intent to shoot. As such, the UOFRB determined Officer E did not intend to fire when he/she placed his/her finger on the trigger of his/her shotgun. The UOFRB noted the placement of the finger on the trigger is not a preemptive movement but a fluid motion that occurs when an officer intends to shoot.

While the UOFRB acknowledged the fluid and stressful nature of this incident, the UOFRB opined preemptively placing his/her finger on the trigger and allowing it to remain with no apparent intent to shoot, Officer E increased the risk of experiencing an unintentional discharge.

Based on the totality of the circumstances, the BOPC determined the tactics employed by Officer E were a substantial deviation, without justification, from Department-approved firearms safety training and found Officer E's tactics to warrant a finding of Administrative Disapproval.

### **Debriefing Point No. 2 Use of Force Warning**

The UOFRB noted Officer A did not provide a Use of Force Warning prior to discharging his/her 40mm LLL as he/she believed that Officer I had given it in Spanish to the Subject. Although Officer I did make the attempt to give a verbal warning to the Subject in Spanish, the UOFRB noted it was not proficient. The UOFRB considered Officer I's limited level of fluency in Spanish as he/she voiced to the Subject, "we are going to shoot you."

Given Officer I's limited level of fluency in Spanish and Officer A believing that the use of force warning had been given, the BOPC found that the 40mm (LLL) Use of Force Warning finding for Officer A, warranted a finding of Substantial Deviation with Justification, Tactical Debrief.

### **Debriefing Point No. 3 High Risk Pedestrian Stop Tactics**

The BOPC discussed the tactical planning between Officers A and B as well as their decision to approach the vehicle employing high risk stop tactics. The UOFRB noted Officers A and B's assessment of the radio call began prior to their arrival as Officer B discussed the comments of the radio call with Officer A and while at scene as they met with Victim A prior to attempting to locate the Subject. In communicating with Victim A, officers were informed the Subject was still inside the vehicle. Although Officers A and B were unable to see inside the vehicle due to the heavy tint, they observed the windshield to be foggy, giving them the indication someone was inside. With the understanding the radio call was over forty minutes old, and the comments of the call not indicating the Subject was armed, Officers A and B utilized investigative vehicle stop tactics to approach the vehicle.

The UOFRB considered the three calls made to CD by the PR and his/her wife, made no mention of weapons. Additionally, the residents standing on their porch demonstrated they were not necessarily alarmed and their presence was an indicator the Subject was probably not armed. Furthermore, the UOFRB noted based on the totality in this case, the decision to approach the vehicle using investigative vehicle stop tactics rather than using high risk stop tactics was based upon the situational awareness provided to the officers by Victim A, the comments of the calls and the officers' observations. The BOPC noted when Officers A and B conducted the investigative vehicle stop, they communicated and planned when they were going to open the door of the vehicle. The officers' plan was to verify if the Subject was still inside the vehicle and, if he was, direct him out. As a result, The BOPC opined Officers A and B's tactics were not a deviation from Department tactical training.

Although the BOPC believed that the High Risk Pedestrian Stop Tactics employed by Officers A and B could have been different, they found that they did not rise to a substantial deviation. As such the BOPC found that the High Risk Pedestrian Stop Tactics employed by Officers A and B warranted a finding of Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Incident Commander Declaration** – While both Sergeants A and B managed the scene, neither advised CD if one of them had assumed the role of Incident Commander (IC).

**Holding Service Pistol in One Hand and Equipment in Other** – When Officer A entered the police vehicle to utilize the PA system, he/she remained unholstered at a



low ready position with his/her service pistol in his/her right hand and the PA microphone in his/her left hand. Alternatively, Officer A could have solely focused on operating the PA system as his/her partner officers next to him/her provided cover.

**Preservation of Evidence** – As officers approached the Subject to take him into custody, Officer A placed his/her left foot on top of the Subject's handgun to prevent him from re-arming himself. When possible, officers should avoid disturbing evidence during a Categorical Use of Force investigation.

After the OIS, Officer I downloaded his/her shotgun, removing one round from the chamber and returned it to patrol ready condition. Upon advising Sergeant B of his/her actions, Sergeant B took possession of the shotgun and secured it in his/her police vehicle. Preferably Officer I should not have unloaded his/her shotgun after the OIS to maintain the integrity of evidence following a critical incident.

**Safe Weapons Handling** – While seated in the passenger seat of his/her police vehicle, Officer C removed the unloaded 40mm LLL from the retention rack. In doing so, Officer C may have momentarily covered his/her hand and Officer D with the muzzle of the 40mm LLL.

**Weapon Deployment** – As officers were faced with an armed Subject, multiple officers on scene took the role of designated cover officer (DCO). Although no specific roles were assigned, officers and/or supervisors could have distributed the force options and assigned roles to reduce the number of firearms utilized.

**Tactical Communication** – Officer A did not readily communicate his/her observations that the Subject was armed with a handgun with Officer B. It was only after Officer A broadcast the backup request that Officer B realized the Subject was armed. Alternatively, Officer A could have immediately informed Officer B that the Subject was armed.

**Simultaneous Non-Conflicting Commands** – Officers on scene provided multiple non-conflicting simultaneous commands to the Subject. Alternatively, one officer could have been designated to communicate and give commands to the Subject for the purpose of reducing confusion.

## **Command and Control**

Arriving to the scene, Sergeant A positioned his/her police vehicle on the street in front of the incident where he/she began to coordinate responding units. In assessing the scene, Sergeant A requested LAFD stage nearby. As the incident unfolded, Sergeant A emphasized a 40mm LLL be deployed. After the OIS, Sergeant A broadcast a help call, separated and monitored the involved officers, directed officers to set up an inner and outer crime scene, canvassed for witnesses and established a Command Post.

Sergeant B arrived on scene and assisted Sergeant A by managing the officers located on the north side of location. After the OIS, Sergeant B formed an arrest team to take the Subject into custody. Additionally, once the Subject was in custody, Sergeant B broadcast a Code Four and directed officers to clear the vehicle.

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

## **B. Drawing/Exhibiting**

### **Officer A (1<sup>st</sup> Occurrence)**

According to Officer A, as the officers approached and opened the front driver's side door of the vehicle, the Subject, who was seated in the rear seat, produced and pointed a handgun at Officer B. Officer A unholstered his/her service pistol because he/she believed the situation could escalate to the use of deadly force.

### **Officer A (2<sup>nd</sup> Occurrence)**

After the deployment of the 40mm LLL and the OIS, Officer A unholstered a second time. According to Officer A, the Subject was still within reach of the handgun and believed the situation could escalate to the use of deadly force and unholstered his/her service pistol.

### **Officer A (3<sup>rd</sup> Occurrence)**

Upon approaching the Subject to take him into custody, the arrest team found themselves in a confined space. Officer A proceeded to unholster his/her service pistol and transitioned to DCO to maintain control of the Subject's handgun. Believing the situation could escalate to the use of deadly force, Officer A unholstered his/her service pistol for a third occurrence.

### **Officer B (1<sup>st</sup> Occurrence)**

According to Officer B, he/she observed Officer A unholster his/her handgun after he/she opened the vehicle door. Officer B interpreted his/her partner's unholstering as an indicator the Subject was possibly armed. Relying on his/her partner's training and experience, Officer B unholstered his/her service pistol because he/she believed the situation could escalate to the use of deadly force.

### **Officer B (2<sup>nd</sup> Occurrence)**

As part of the arrest team, Officer B was the assigned DCO with the shield. Believing the situation could escalate to the use of deadly force, Officer B

unholstered his/her service pistol for a second time to approach and take the Subject into custody.

**Officer B (3<sup>rd</sup> Occurrence)**

Officer B unholstered his/her service pistol as he/she positioned himself/herself to clear the vehicle. Officer B was not asked by investigators why he/she unholstered his/her service pistol in this instance; however, it can be seen on Officer E's BWV footage.

**Officer C (1<sup>st</sup> Occurrence)**

Based on the nature of Officer A's back up request which involved a man armed with a gun, Officer C believed the situation could escalate to the use of deadly force and unholstered his/her service pistol.

**Officer C (2<sup>nd</sup> Occurrence)**

Prior to taking the Subject into custody, Officer C holstered his/her service pistol and walked toward the rear of the police vehicle where he/she asked nearby officers for the shield. Officer C then returned to his/her position behind the passenger side door of his/her police vehicle and unholstered for a second occurrence. Officer C was not asked by investigators why he/she unholstered his/her service pistol in this instance, but it can be seen on Officer C's BWV footage.

**Officer C (3<sup>rd</sup> Occurrence)**

Officer C became part of the team of officers that were clearing the vehicle. Officer C unholstered his/her service pistol as he/she positioned himself/herself by the driver side door to clear the vehicle. Believing the situation could escalate to the use of deadly force, Officer C unholstered his/her service pistol.

**Officer C (4<sup>th</sup> Occurrence)**

As officers repositioned themselves to the front of the vehicle to clear it, Officer C unholstered and covered the vehicle. Officer C was not asked by investigators why he/she unholstered his/her service pistol in this instance, but it can be seen on Officer C's BWV footage.

**Officer D (1<sup>st</sup> Occurrence)**

According to Officer D, based on the information Officer A broadcasted, the Subject was armed with a handgun. In response, Officer D drew his/her service pistol as he/she arrived and exited his/her police vehicle. Officer D unholstered his/her service pistol because he/she believed the situation could escalate to the use of deadly force.

### **Officer D (2<sup>nd</sup> Occurrence)**

Once the Subject was taken into custody, Officer D was assigned to clear the vehicle. As Officer D approached the front engine of the vehicle, he/she unholstered his/her service pistol as he/she believed the situation could escalate to the use of deadly force.

### **Officer G (1<sup>st</sup> Occurrence)**

According to Officer G, due to the backup request of a man with a gun, Officer G drew his/her service pistol as he/she believed the situation could escalate to the use of deadly force.

### **Officer G (2<sup>nd</sup> Occurrence)**

In being tasked with clearing the vehicle and in believing the situation could escalate to the use of deadly force, Officer G unholstered his/her service pistol.

### **Officer E (Shotgun)**

In listening to Officer A's back up request, Officer E responded to the scene with the understanding the Subject was armed with a handgun. Believing the situation could escalate to the use of deadly force, Officer E exited his/her police vehicle and retrieved his/her shotgun from the vehicle's shotgun rack, loading a round into the chamber.

### **Officer I (Shotgun)**

According to Officer I, based on the information provided by Officer A, the Subject was armed with a handgun and posed a threat of death or serious bodily injury. Believing the situation could escalate to the use of deadly force, Officer I removed his/her shotgun from the police vehicle's shotgun rack and positioned himself/herself behind cover.

### **Sergeant A**

Upon Sergeant A's arrival on scene, he/she unholstered momentarily as he/she walked to the rear of his/her police vehicle. Although Sergeant A was not asked by investigators why he/she unholstered his/her service pistol in this instance, the unholstering of his/her handgun can be seen on Officer D's BWV.

The UOFRB assessed Officers A, B, C, D and G and Sergeant A's drawing and exhibiting of their service pistols, as well as Officers I and E's exhibiting of their shotguns. In their assessment, the UOFRB noted Officers A and B unholstered their service pistols upon encountering and observing the Subject armed with a handgun.

Regarding Officers C, D and G, and Sergeant A's drawing and exhibiting of their service pistols, as well as Officers I and E's exhibiting of their shotguns, the UOFRB noted the officers drew and exhibited their service pistols multiple times while deploying and redeploying on the Subject as well as clearing the vehicle. The UOFRB also noted Officer's A broadcast indicated the Subject was armed with a handgun and was inside the vehicle. Additionally, as the Subject exited the vehicle, Officers C, D, E, G and I and Sergeant A observed the Subject holding a handgun. The UOFRB opined it was reasonable for them to believe the situation could escalate to the use of deadly force. The UOFRB also opined the circumstances surrounding the incident clearly created a reasonable belief amongst the officers the situation may rise to 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 A, B C, D, E, G and I and Sergeant A would reasonably believe there was a substantial risk the situation may escalate to where deadly force may be justified.

Therefore, the BOPC found Officers A, B C, D, E, G and I and Sergeant A's Drawing/Exhibiting to be In Policy.

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

**Officer A** – 40mm LLL, fired three 40-millimeter rounds from an approximate distance of 31 feet.

#### **First Round**

Officer A observed the Subject armed with a handgun as he paced back and forth. Officer A announced the preparatory command for the deployment of the 40mm LLL while Officer I attempted to give the Subject commands in Spanish to drop the handgun. The Subject failed to comply. Fearing for his/her partner officers and his/her safety, Officer A discharged one round from the 40mm LLL at the Subject to protect them from the immediate threat of serious bodily injury.

#### **Second Round**

According to Officer A, he/she continued to observe the Subject pace back and forth holding the handgun. Fearing the Subject would attempt to run inside the occupied residence and in attempting to protect others from the immediate threat of serious bodily injury, Officer A discharged a second round from the 40mm LLL, striking the Subject's left side.

#### **Third Round**

According to Officer A, the Subject continued to maintain control of his handgun and refused to comply with the officer's commands to drop his weapon. As the Subject

continued to pose an immediate threat of serious bodily injury or death, Officer A discharged a third round from the 40mm LLL, striking the Subject's left side for a second time.

The BOPC assessed Officer A's use of less-lethal force. In their assessment, the UOFRB noted each time Officer A discharged his/her 40mm LLL, the Subject was armed with a handgun posing an immediate threat. Despite the multiple attempts to communicate with the Subject to drop the handgun, the Subject did not comply. As a result, the UOFRB opined all three rounds Officer A discharged from his/her 40mm LLL were in response to the Subject's erratic behavior as he/she continued to be armed and posed an immediate threat to the safety of the officers.

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 the use of less-lethal force was proportional and objectively reasonable.

Therefore, the BOPC found Officer A's Less-Lethal Use of Force to be In Policy.

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

**Officer I** – Department-authorized Remington, Model 870, 12-gauge, pump shotgun, fired one round from an approximate distance of 36 feet.

Officer I observed the Subject armed with a handgun. The Subject pointed the handgun toward his/her partners and his/her direction. Believing the Subject was attempting to shoot him/her, Officer I discharged one round from his/her shotgun at the Subject to protect himself/herself from the imminent threat of serious bodily injury or death.

**Officer E** – Department-issued Remington, Model 870, 12-gauge, pump shotgun, fired one round from an approximate distance of 39 feet.

Officer E observed the Subject hiding between the gate and the vehicle armed with a handgun. The Subject raised the handgun and pointed it toward him/her and his/her partner officers' direction. Officer E reported he/she felt afraid and believed there was a chance the Subject was going to shoot at them as he pointed the handgun toward them. Believing the Subject was attempting to shoot him/her, Officer E discharged one round from his/her shotgun at the Subject to protect himself/herself and others from the imminent threat of serious bodily injury or death.

**Officer C** – Glock, Model 21, semi-automatic pistol, .45 caliber, fired a total of two rounds from an approximate distance of 41 feet.

## **Round One**

Once the Subject positioned himself in front of the car, he pointed the gun in the officers' direction. Believing the Subject was going to shoot him/her, Officer C discharged one round from his/her service pistol at the Subject to protect himself/herself and his/her partner from the imminent threat of serious bodily injury or death.

## **Round Two**

After Officer C discharged his/her first round at the Subject, he/she assessed and recognized his/her first shot had not stopped the Subject's deadly threat as the Subject continued to point the handgun in in the officers' direction. As a result, Officer C discharged a second round from his/her service pistol to protect himself/herself and others from the imminent threat of serious bodily injury or death.

**Officer D** – Glock, Model 19, semi-automatic pistol, 9mm caliber, fired a total of six rounds from an approximate distance of 35 feet.

## **Rounds One - Five**

Officer D observed the Subject crouched down in front of the vehicle holding the handgun. The Subject then faced and pointed the handgun toward Officer D's direction. Officer D could see the barrel of the handgun. Believing the Subject was going to shoot him/her, he/she discharged five rounds from his/her service pistol to protect himself/herself from the imminent threat of serious bodily injury or death. Officer D assessed between each round and continued to observe the Subject holding the handgun.

## **Round Six**

After Officer D fired a fifth round, the Subject was still armed with the handgun. As a result, Officer D discharged a sixth round from his/her service pistol to protect himself/herself from the imminent threat of serious bodily injury or death. Officer D Subject stopped firing when he/she observed the Subject was no longer armed and the handgun had fallen to the ground.

**Officer G** – Smith and Wesson, Model M&P, semi-automatic pistol, .40 caliber, fired a total of two rounds from an approximate distance of 37 feet.

## **Round One**

Officer G observed the Subject armed with a handgun as he turned toward his/her partner officers' direction. Fearing for his/her partner officers' safety, Officer G discharged one round to protect others from the imminent threat of serious bodily injury or death.

## Round Two

After discharging his/her first round, Officer G assessed and observed the Subject was still holding the handgun and had now turned more toward the officers' direction. In response, Officer G fired a second round from his/her service pistol to protect others from the imminent threat of serious bodily injury or death. Officer G stopped firing when the Subject dropped the handgun.

The BOPC assessed Officers C, D, E, G and I's use of lethal force. In their assessment, the UOFRB noted the Subject was armed with a handgun and was acting erratically. Although the Subject was armed with a handgun, the UOFRB opined officers on scene showed significant restraint and respect for human life as they prioritized communicating with the Subject and in electing to deploy a less-lethal control device prior to the OIS. The UOFRB also noted, despite the officers' attempts to communicate with the Subject to have him put down the handgun, the Subject refused to listen to the officers' commands as he continued to pace back and forth while still armed. As such, the UOFRB opined the Subject escalated the situation, demonstrated his willingness to commit violence and posed an imminent threat to life when he ignored the commands being given to him and pointed the handgun toward the officers.

The UOFRB also noted all twelve rounds were discharged under three seconds, leading the UOFRB to believe Officers C, D, E, G and I observed the same imminent threat posed by the Subject and stopped discharging their pistol at the time the imminent threat had ceased.

Based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officers C, D, E, G and I, in the same situation, would reasonably believe the use of lethal force was objectively reasonable, proportional and necessary.

Therefore, the BOPC found Officers C, D, E, G and I's use of Lethal Force, all rounds, to be In Policy.