

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

OFFICER-INVOLVED SHOOTING – 040-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollenbeck	7/22/22		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	4 years, 10 months
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Reason for Police Contact

On July 22, 2022, at approximately 1851 hours, officers observed a vehicle without license plates. As the two officers positioned their patrol vehicle to conduct a traffic stop, the front passenger exited, armed with a pistol. The passenger (the Subject) then fled through a residential neighborhood and the two officers foot-pursued him. During this foot pursuit, the suspect pointed the pistol at one of the officers, resulting in an officer-involved shooting (OIS).

Subject	Deceased (X)	Wounded ()	Non-Hit ()
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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 (Chief); and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on July 11, 2022.

Incident Summary

On July 22, 2022, at approximately 1850 hours, two officers observed a black vehicle without license plates.

According to the officers, they had knowledge that multiple stripped vehicles had been recovered in the area and believed that a “chop shop” (a place where stolen vehicles are disassembled) was operating nearby. Based on that information, they believed that the vehicle was possibly stolen.

The officers positioned their police vehicle behind the vehicle and followed it. They observed a female driver but no other occupants.

The officers followed the subject vehicle into a parking lot. According to the officers, while doing so, the front passenger door unexpectedly opened while the vehicle was still moving. Officer A observed the front passenger (the Subject) exit the vehicle armed with a pistol in his right hand.

The Subject immediately fled from the vehicle armed with a pistol and ran east in the alleyway north of the parking lot. Officers A and B followed in foot pursuit and unholstered their pistols.

As Officer A ran after the Subject in the alley, Officer B followed approximately 15 feet behind, while broadcasting a request for a backup and an airship (helicopter) for a “man with a gun.” The Subject continued running through the alley as the officers repeatedly ordered him to “drop the gun.”

According to the officers, they pursued the Subject in apprehension mode because they were concerned he might enter a yard or house, where residents were present, and take a hostage.

According to Officer A, the Subject ran west along the parked vehicles on the north side of the street as the officers continued pursuing him from approximately 60 to 75 feet away. The officers indicated that they remained unholstered while following the Subject because they observed him look over his shoulder multiple times and believed that he might attempt to shoot at them.

As the Subject and the officers approached an intersection, the Subject ran north with the officers following behind him. After running approximately 50 feet, the Subject stumbled forward and fell to the ground on his right side.

According to Officer A, he/she observed the Subject lying on the ground and raising the barrel of his pistol toward him/her while looking directly at him/her. In fear for his/her life, Officer A aimed his/her pistol at the Subject’s center body mass and began firing his/her pistol while stepping backward.

According to Officer A, he/she assessed throughout the OIS and observed the Subject continue raising his pistol toward him/her. Officer A stopped firing his/her pistol when he/she observed the Subject's actions "starting to change" and "the gun starting to lower." Although he/she observed that the Subject's pistol remained in his hand, he/she believed that his/her rounds had been effective and there was no need to fire additional rounds.

The investigation determined that Officer A fired 18 rounds from an increasing distance of 20 to 30 feet.

At the time when Officer A fired his/her first round, Officer B was approximately 5 feet north of Officer A and 15 feet east of the Subject. During the OIS, Officer B continued to move north along the driver side of a vehicle that was parked on the east curb. When Officer A fired his/her last round, Officer B was positioned approximately 5 feet north and 15 feet east of the Subject.

According to Officer B, while following the Subject, he/she (Officer B) stumbled as he/she stepped off the sidewalk. Simultaneously, he/she observed the Subject fall onto "all fours" and drop his pistol on the ground. The Subject then immediately reacquired the pistol, rolled onto his right side, and pointed the pistol at Officer A.

Force Investigation Division's (FID's) Video Technology Unit (VTU) performed a sound graph analysis on Officers A and B's BWV. The analysis determined that a total of 19 rounds were fired in approximately 3.26 seconds.

After the OIS, the Subject's pistol rested on the pavement and underneath the back of his right hand. Forensic Science Division's (FSD) Firearms Analysis Unit (FAU) collected the Subject's pistol and rendered it safe. The magazine was partially ejected, and the slide was partially rearward due to a discharged cartridge case (DCC) failing to eject, which indicated the pistol had been fired. The DCC in the Subject's pistol, in conjunction with 19 rounds being recorded (one more round than Officer A fired), indicated that the Subject fired his pistol during the OIS. However, the exact time the Subject fired could not be determined.

According to Officer A, he/she observed that his/her pistol was out of ammunition and sought cover behind a metal sign on the center median, where he/she reloaded his/her pistol. Simultaneously, Officer B joined Officer A and repeated his/her broadcast of their location. Approximately ten seconds later, Officer B broadcast a request for a rescue ambulance (RA).

Officer A's background consisted of a paved roadway and center median with a cinderblock wall. Approximately 120 feet north of the Subject was an unoccupied vehicle parked along the east curb. This vehicle was struck by two rounds that deflected off the roadway. Additionally, 260 feet northwest of the Subject was a single-family residence that was struck by one round. It could not be determined if this round was independent or associated with another impact.

In response to Officer B's initial back-up request, numerous personnel arrived at this incident after the OIS.

Approximately three minutes after the OIS, Officer C arrived on scene and positioned his/her police vehicle approximately 25 feet south of the Subject. Officers A and B utilized the driver's side ballistic door of this vehicle as cover. Approximately one minute later, Officer D arrived and positioned his/her vehicle a few feet east of Officer C's vehicle. As additional officers continued to arrive, Officer D formulated an arrest team to approach and take the Subject into custody.

Sergeant A arrived approximately five minutes after the OIS. He/she was the first supervisor on scene and began directing officers. Officer D briefed Sergeant A on a plan to approach the Subject and take him into custody with an arrest team. Sergeant A recognized the need to render medical aid to the Subject; however, he/she observed the pistol in the Subject's hand and was concerned he may shoot at officers.

Officer D advised Sergeant A that a ballistic shield had been requested and he/she was assembling an arrest team with lethal force, less-lethal force, and handcuffing roles. Approximately 30 seconds after Sergeant A's arrival, officers arrived with a ballistic shield and joined the arrest team. Sergeant A then directed the arrest team to assemble and approach the Subject from the right side (east) of Officers D's police vehicle.

Prior to the team's approach, Officer D assigned each officer's role and briefed his/her team. Officers C and E would move the Subject away from his pistol before handcuffing him.

Approximately two minutes after Sergeant A's arrival, the arrest team began their approach led by Officer D. Sergeant A remained with Officers A and B while he/she monitored the arrest team.

As the team approached, Officer D advised Officer C to control the Subject's hands and ordered the Subject not to move. An officer momentarily placed his/her left foot on the Subject's pistol, as Officer C grabbed the Subject's arms and Officer E grabbed his legs. They then lifted him away from his pistol and placed him on the ground approximately 10 feet away. The Subject was handcuffed, searched, and placed into a right lateral recovery position.

An officer stood over and monitored the Subject's pistol to preserve it as evidence.

Approximately 47 seconds after the Subject was handcuffed, Los Angeles County Fire Department (LACFD) arrived on scene and treated the Subject for multiple gunshot wounds to his torso & legs. At approximately 1913 hours, an ambulance transported the Subject to the hospital where a doctor treated him for multiple gunshot wounds. At 1942 hours, the doctor pronounced the Subject deceased.

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

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Sergeant A	Yes	Yes	Yes	Yes	Yes
Officer A	No	Yes	Yes	No	No
Officer B	No	Yes	Yes	No	No
Officer D	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

The BOPC found Officer D and Sergeant A's tactics to warrant a finding of Tactical Debrief. The BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

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

Basis for Findings

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

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe,

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

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

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

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

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

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

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

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

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 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, 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.

Detention

- Officers observed a vehicle with no license plates near a known “chop shop” location. Officer B also recognized the driver as a known criminal street gang member. Suspecting that the vehicle may have been stolen, officers intended to investigate further. Before the officers could conduct a traffic stop, a previously unseen passenger (the Subject) exited the vehicle while holding a pistol and fled. Based on the totality of the circumstances, the officers had reasonable suspicion to detain the Subject.

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/her/herself or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

- **Planning and Assessment** – Officers A and B had been partners for approximately three years. At the beginning of their shifts, they discussed various topics, including contact and cover roles, tactical de-escalation, and foot-pursuit tactics. Both during and after the OIS, Officer B assessed the need for additional resources.

After the OIS, Officer D arrived and assumed responsibility for tactical planning. He/she formed a tactical team that included a Designated Cover Officer (DCO), less-lethal force officer, shield operator, and arrest team. Based on Officer D and Sergeant A's assessment of the situation, they created a plan to approach the Subject and take him into custody without further incident. Based on his/her assessment, Sergeant A directed the team to approach the Subject from the east due to the tactical advantage it provided the officers.

- **Time and Redeployment/ Containment** – After the Subject exited the vehicle, Officers A and B pursued him on foot, from approximately 50 to 75 feet away. When the Subject turned and fell, Officers A and B were approximately 20 feet and 15 feet away from the Subject, respectively. At the time of the OIS, the officers were unable to use available cover. After the OIS, the officers redeployed to the center median of the street, which had a metal sign and bush, which they used as concealment. When the first unit arrived at the scene, Officers A and B redeployed behind the responding police vehicle's driver-side ballistic door panel.
- **Other Resources and Lines of Communication** – Seeing that the Subject was armed with a pistol, Officer A advised Officer B, "Gun, gun, gun!" The officers then

exited their police vehicle and foot-pursued the Subject. As they did so, the officers repeatedly ordered him to “drop the gun.” Despite the officers’ orders, the Subject maintained possession of his pistol. Additionally, Officer B advised CD that officers needed backup units for a “415 man with a gun.” The Subject’s subsequent actions limited the officers’ ability to de-escalate the situation before the OIS.

After the OIS, Officer B advised CD that shots had been fired and the officers needed help. Officer B also advised CD that one suspect was down and the pistol was still in his hand. In response, CD repeated the officers’ location and requested that an air unit (helicopter) respond to the scene. Officer B also requested that the Los Angeles County Sheriff’s Department respond, as the scene bordered the two jurisdictions. While awaiting additional resources, the officers ordered the Subject not to move. When additional LAPD units arrived, they helped establish containment. Using available resources, including a ballistic shield, officers apprehended the Subject without additional force.

The BOPC considered that the Use of Force Review Board (UOFRB) noted that when Officer B requested back-up units, he/she effectively placed him/herself and his/her partner Code Six (on scene); however, he/she did not advise CD that they were in foot pursuit. Although Officer B broadcast his/her location, the transmission was not clear, and CD was unable to discern what he/she said, likely because he/she was running. The UOFRB noted that when CD asked the officers to repeat their location, they did not initially respond and Officer B’s next broadcast did not provide a cross street. The UOFRB also noted that the first clear broadcast regarding their location occurred after the OIS. While the UOFRB would have preferred that the officers had clearly communicated their location and activity, the UOFRB felt that this issue was best addressed during the tactical debrief.

During its review of this incident, the UOFRB noted the following tactical considerations:

- **Foot Pursuit Concepts – Apprehension v. Containment**

Officers A and B observed the Subject exit the vehicle armed with a pistol. Officers A and B then foot-pursued the Subject in apprehension mode. According to Officers A and B, they were in apprehension mode due to families outside their residences and the possibility that the Subject could take a hostage.

While in foot pursuit of the Subject, Officers A and B used minimal cover. At the time of the OIS, both Officers A and B were without cover or concealment.

The BOPC noted that the UOFRB assessed Officers A and B’s tactics during the foot pursuit. The UOFRB noted that the Department’s tactical training states that officers generally should not pursue an armed suspect in apprehension mode. Based on the distance between the Subject and the officers, the UOFRB determined that they were in apprehension mode while pursuing an armed suspect. The UOFRB did note that Officers A and B’s justification for pursuing the Subject in apprehension mode was due to families outside their residences and the possibility

that he could take a hostage. However, the UOFRB opined that the officers' justification was insufficient as the reasoning was too general and there was no specific evidence or articulation that the Subject was planning to do so. Based on the totality of the circumstances, the UOFRB opined that the officers should have pursued the Subject in containment mode, using distance and available cover.

As part of their assessment, the UOFRB evaluated Officers A and B's use of cover. While in foot pursuit of the Subject, Officers A and B used limited cover. As a result, they were without the benefit of cover for most of the foot pursuit as well as during the OIS. The UOFRB opined that by not using cover, the officers unnecessarily risked their safety, placed themselves at a significant tactical disadvantage, and limited their options to respond to the Subject's actions.

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

- **Foot Pursuit Concepts – Suspects Fleeing from a Vehicle**

After exiting the vehicle, the Subject fled while armed with a pistol. As Officers A and B pursued the Subject, they ran past the vehicle. At the time, both officers were cognizant that the vehicle was still occupied. According to Officer B, he/she conducted a quick visual clearance of the vehicle and saw that the only occupant was the female driver and he/she could see her hands. Officer B stated that he/she felt comfortable running past the vehicle at that point. Officer A did not clear the vehicle. Unbeknownst to Officer A, Officer B recognized this female as a known criminal street gang member. Officer A stated that his/her reasoning for running past the subject vehicle was because he/she wanted to apprehend the Subject who was fleeing with a pistol.

The BOPC noted that the UOFRB assessed Officers A and B's decision to run past the vehicle. The UOFRB noted that officers' need to consider the possibility of additional suspects remaining in the vehicle and the potential of an ambush. As such, the UOFRB was critical of the officers' decision to run past the vehicle, especially given Officer B's knowledge of the female driver being a known gang member. The UOFRB felt that the female driver presented a danger to the officers and that running past her and the vehicle without properly clearing it or holding her placed the officers at a significant tactical disadvantage and unnecessarily risked their safety. It was also noted that the speed at which the officers ran past the vehicle would have made it difficult to determine if additional suspects were inside the vehicle.

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

The UOFRB also considered the following additional debriefing topics:

- **Lines of Communication** – See Tactical De-Escalation, above.
- **Fire Discipline/Fire Control** – The FID investigation revealed that Officer A discharged 18 rounds in 3.26 seconds. As officers are responsible for every round they discharge, they must balance speed with accuracy.
- **Running with a Firearm** – While in foot pursuit, Officers A and B ran with their pistols in their right hands. Alternatively, they could have kept their pistols holstered as they ran, reducing the risk of an unintentional discharge.
- **Non-Conflicting Simultaneous Commands** – During the foot pursuit, Officers A and B gave simultaneous non-conflicting commands to the Subject. Alternatively, one officer should have been designated as the contact officer to avoid the potential for confusion and to allow the other officer to focus on additional tasks.
- **Tactical Language** – While in foot pursuit, Officer B told the Subject, “Drop the gun! We’re gonna shoot you. Drop the gun!” Whether intended as a warning or a ruse, it was unlikely to cause the Subject to stop and drop his pistol and could have escalated the incident.
- **Securing Police Vehicle** – When Officers A and B foot-pursued the Subject, Officer B exited the police vehicle and left the keys in the ignition. Officers are reminded that the security of police vehicles is an important component of officer safety as there are tools and weapons in police vehicles that could be accessed by unauthorized persons.

Command and Control

- Officer D arrived at the scene at 1855:20 hours. He/she met with Officers A and B and began to form a tactical team. At 1856:17 hours, Sergeant A was the first supervisor to arrive at the scene. At 1856:24 hours, Officer D directed Officer B to request a ballistic shield. Approximately 20 seconds later, Officer D advised Sergeant A that he/she was putting together an arrest team and plan to approach the Subject and take him into custody.

At 1857:30 hours, Officer D delegated roles to the team, including a ballistic shield, DCO, less-lethal force options, and handcuffing officers. Officer D communicated to the team his/her tactical plan to approach the Subject and apprehend him. Sergeant A directed that the arrest team to approach the Subject from the right side of Officer D’s police vehicle.

At 1857:38 hours, Sergeant A removed Officers A and B from their tactical position and began to monitor them. Simultaneously, he/she monitored the arrest team’s approach. At 1900:42 hours, Sergeant B directed Officers A and B to turn off their BWV.

At 1903:15 hours, Lieutenant A arrived at the scene and declared him/herself as the Incident Commander (IC). Approximately five minutes later, Lieutenant A established a command post nearby.

At 1910 hours, Sergeant A obtained Officer B's public safety statement (PSS); Sergeant B obtained Officer A's PSS.

The Department Operations Center was notified of the OIS at 1914 hours.

The BOPC considered that the UOFRB noted that Officer D effectively slowed the incident down and displayed active leadership throughout the incident. The UOFRB also noted that as the sole supervisor at the scene, Sergeant A effectively delegated tasks to Officer D, allowing him/her to simultaneously monitor the tactical situation and assume administrative roles as the IC.

The BOPC determined that the overall actions of Officer D, Sergeants A, B, and Lieutenant A were consistent with Department training and expectations of supervisors during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this incident, the BOPC determined that the actions of Officers A and B were a substantial deviation, without justification, from Department-approved tactical training. The BOPC also determined that the actions of Officer D and Sergeant A did not deviate from department-approved tactical training.

Each tactical incident merits a comprehensive debriefing. In this incident, there were identified areas where improvements could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

B. Drawing and Exhibiting

- **Officer A**

After following the vehicle into the parking lot, Officer A observed the Subject exit the passenger side of the subject vehicle armed with a pistol. Officer A then exited the police vehicle, unholstered his/her pistol, and foot-pursued the Subject. According to Officer A, he/she believed that the Subject was a gang member and the situation could escalate to lethal use of force.

- **Officer B**

After following the vehicle into the parking lot, Officer B observed the Subject exit the passenger side of the vehicle, armed with a pistol. Officer B exited the driver's side of the police vehicle, unholstered his/her pistol, and foot-pursued the Subject.

According to Officer B, he/she observed the Subject running with a pistol and believed that lethal force could be justified.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their pistols. The UOFRB noted that the Subject exited the subject vehicle while holding a pistol. While the Subject could have left the pistol in the vehicle, he chose to take it with him when he fled. The UOFRB also noted that he refused to comply with the officers' commands and repeatedly looked back toward the officers while running with the pistol. Based on the Subject's actions, the UOFRB felt that it was reasonable for the officers to believe that the situation may escalate to lethal force.

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

C. Lethal Use of Force

- **Officer A** – pistol, 18 rounds in a northerly direction from an increasing distance of 20 to 30 feet.

Background – The FID investigation determined that the background was a paved roadway, center median with a cinderblock wall, unoccupied vehicle, and single-family residence.

According to Officer A, while in foot pursuit of the Subject, he/she observed him lay down and take a prone position. The Subject then raised the barrel of his pistol toward Officer A while looking directly at him/her. Fearing for his/her life, Officer A aimed his/her pistol at the Subject's center mass and began firing his/her pistol while stepping back. According to Officer A, he/she assessed throughout the OIS and observed the Subject continue to raise his pistol toward him/her. Officer A indicated that he/she stopped firing when he/she observed the Subject's actions "starting to change" and the pistol "starting to lower." Although he/she observed that the Subject's pistol remained in his hand, Officer A believed that his/her rounds had been effective, and there was no need to fire additional rounds.

The BOPC noted that the UOFRB assessed Officer A's lethal use of force. The UOFRB noted that when the Subject fled from the vehicle, he chose to take the pistol instead of leaving it in the subject vehicle. The UOFRB also noted that he refused to comply with the officers' commands and repeatedly looked back toward the officers while running with the pistol in his hand.

The UOFRB noted that when the Subject fell to the ground, Officer A observed him take what he/she believed was a prone position, make eye contact, and point his pistol at him/her (Officer A). Believing that the Subject was going to shoot him/her, Officer A fired at the Subject. According to Officer A, as he/she discharged his/her rounds,

he/she observed that the Subject continued to make eye contact and raise his pistol toward him/her. The UOFRB noted that as Officer A discharged his/her rounds, BWV footage appeared to depict the Subject raising his pistol. Based on his/her observations, Officer A did not know if his/her rounds were striking the Subject, as he/she did not see the Subject's behavior change. In response, Officer A continued to fire. Based on the available evidence, the UOFRB opined that the Subject posed an imminent lethal threat and Officer A's use of lethal force was objectively reasonable and proportional.

While the UOFRB agreed that Officer A's lethal use of force was objectively reasonable and proportional, they disagreed as to whether it was necessary. As it pertains to the UOFRB Minority, although they concurred that Officer A's tactics substantially and unjustifiably deviated from Department-approved tactical training, they disagreed regarding the impact his/her tactics had on the outcome of the incident. The Minority believed that even if Officer A had employed better tactics, such as allowing more distance from the Subject and using available cover, his/her tactics did not precipitate the incident and that the OIS would still have occurred when the Subject pointed his pistol at Officer A. As such, the Minority opined that it was the Subject's actions, and not Officer A's tactics, that created the necessity for Officer A to use lethal force.

The UOFRB Majority disagreed with the Minority. As discussed in Debriefing Point No. 1, the Majority noted that Officer A pursued the Subject, an armed suspect, in apprehension mode. The Majority opined that rather than pursuing the Subject in apprehension mode, he/she should have used other available resources and techniques, specifically distance and cover. The Majority noted that by going in apprehension mode of an armed suspect, Officer A reduced the distance and cover available to him/her, thereby limiting his/her options and the time he/she had to react to the Subject's actions. The Majority opined that the tactics employed by Officer A placed him/her in a position where his/her only option was to use lethal force. As such, the Majority determined that Officer A's lethal use of force was not necessary.

In the BOPC's assessment of this incident, the BOPC noted that Officers A and B were engaged in an extended foot pursuit of a man they knew to be armed with a pistol. During the time they attempted to apprehend the Subject, they should have sought to create some distance, utilize available cover, and summon additional resources, in accordance with the Department's training on foot pursuit concepts. Instead, they chose to close the distance on the suspect, placing themselves in a tactically disadvantageous position. While the BOPC understood their articulation that they were concerned for the residents of the area and feared a possible hostage situation, they did not find this to be a compelling justification, given that the suspect gave no indication he was desirous of finding and taking a hostage. Additionally, a review of the available video from the neighborhood seems to show that it was relatively quiet and void of pedestrian activity. The decision to continue to pursue the Subject in apprehension mode placed the officers in a vulnerable position, without the benefit of cover, when the Subject fell, rearmed himself, and apparently discharged his pistol at one of the officers. In immediate self-defense upon being confronted by the Subject pointing a pistol at

him/her, Officer A had no alternative but to use lethal force.

In the BOPC's review of the available BWV, the officers' statements, and the physical evidence, it noted that it was unclear when the Subject discharged his firearm and whether he continued to present an imminent lethal threat necessitating the firing of all 18 rounds and Officer A's weapon going out of battery. The Department expects officers to exercise fire control and fire discipline and to continuously evaluate the need for lethal force. As indicated above, fire discipline and fire control will be a topic of discussion during the Tactical Debrief. Overall, in considering Officer A's tactical decisions that placed him/her in a position where he/she had no choice but to use lethal force and his/her lack of fire control, the BOPC concluded that Officer A's use of lethal force was not necessary.

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

Requirement to Intercede

- During its review of this incident, the BOPC noted that Officer A discharged all 18 of his/her rounds in 3.26 seconds. As stated above, the UOFRB also noted that as Officer A discharged his/her rounds, BWV footage appeared to depict the Subject raising his pistol. Based on its review of this incident, the BOPC determined that the force used would not have appeared to be clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances, and that Officer B did not deviate from his/her duty to intercede.