

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

OFFICER-INVOLVED SHOOTING – 041-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No()
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Hollenbeck	7/27/22		
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Officer(s) Involved in Use of Force	Length of Service
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Officer B	8 years 5 months
Officer C	14 years 3 months

Reason for Police Contact

A Traffic officer was flagged down by multiple citizens who reported a man armed with a gun (the Subject). The traffic officer requested a backup and officers responded. The Subject pointed a pistol in the officers' direction, which resulted in an officer-involved shooting (OIS).

Suspect(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Male, 31 years of age.			
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Board of Police Commissioners' Review

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

The following incident was adjudicated by the BOPC on July 18, 2023.

Incident Summary

On Wednesday, July 27, 2022, at approximately 1057 hours, a Traffic officer, Officer A equipped with a body-worn video (BWV) camera was conducting a traffic collision investigation. While at scene, Officer A was approached by multiple citizens who reported seeing a man with a gun (the Subject).

Although Officer A was initially unable to locate the Subject, he/she broadcast a request for a unit "for a citizen reporting a 415 man with a gun."

After Officer A completed the broadcast, he/she exited his/her vehicle and asked, "Where's he at?" A voice of an unknown female citizen replied, "He's right there on the corner, by the light."

After observing the Subject, Officer A upgraded his/her request to a "backup" and provided a description of the Subject. Officer A advised FID investigators that he/she did not initially see anything in the Subject's hands when he/she first observed him standing near the street corner.

At 1100:01 hours, Officers B and C equipped with BWV cameras broadcast that they were responding to the back-up request. Officers B and C responded Code Three (with emergency lights and siren activated).

Officers B and C had worked together on two prior occasions, and on this day they were assigned to conduct traffic enforcement. At the start of their watch, Officers B and C discussed tactics, which included contact and cover roles. According to Officer C, he/she and Officer B also discussed suspect containment versus apprehension mode and stated, "Nowadays we like going obviously containment mode on any type of armed suspects."

Several additional officers responded to Officer A's backup request, including Officers D, E, F, G, H, I, J, and K.

As the officers responded, Officer A broadcast an update of the Subject's location. After completing the broadcast, Officer A was approached by an additional unknown male citizen who asked, "Did you see this guy here?" as he pointed in a northwest direction. The citizen stated, "I don't know if it's a toy gun or what but he's waiving it around." This citizen did not remain at scene and was not identified by investigators.

Officer A stood near a vehicle parked along the east sidewalk when he/she was approached by another citizen, Witness A, who asked Officer A, "Did you see that?" and "I don't know if it's real or not, but he, he has, he has gun."

At 1102:18 hours, an Air Unit arrived overhead. The Tactical Flight Officer (TFO) broadcast, "Have units respond eastbound [...] only," followed by a request for the Subject's location.

According to Officers B and C, as they approached the incident location, they were unable to locate the Subject.

Investigators interviewed Witnesses B and C who were standing nearby, on a corner of the intersection where the incident was occurring. According to Witnesses B and C, they observed the Subject pointing a pistol at a police vehicle and pulling the trigger as it drove by him. The police vehicle drove through the intersection and turned around.

Investigators determined that the police vehicle observed by Witnesses B and C was occupied by Officers B and C as they arrived at scene. Officers B and C did not observe the Subject pointing a pistol at them until later in the incident.

According to Officer C's BWV, at 1102:53 hours, Officer B negotiated a U-turn and stopped in the number one lane and faced north. Officer A approached the passenger side of the officers' vehicle, pointed in a northwest direction, and stated, "I think he's [the Subject is] that male [...] walking northbound."

Officers B and C did not "go Code Six" (broadcast that they were on scene) upon arrival. Officer C stated he/she was unable to update their status "due to the air was being tied."

During a review of BWV recordings, investigators observed that the air unit was overhead as Officers B and C arrived at scene. Officer C picked up the microphone two times as the RTO and air unit completed a broadcast related to the incident. Officer C was still holding the microphone when Officer B first observed the Subject holding a pistol.

Officer B advised investigators that he/she believed the Officer C notified CD they were at scene as they arrived.

At 1102:56 hours, three seconds after stopping to speak with Officer A, Officer B shouted, "Oh he's got the gun," as he/she placed the police vehicle in park, exited the driver's seat, and unholstered his/her pistol. Officer B stood to the left of the driver's door and raised his/her pistol with a single-handed grip, in his/her right hand.

Officer B activated his/her BWV camera after he/she observed the Subject holding a pistol and having exited his/her vehicle.

Officer B advised investigators, "I just started looking and sure enough I saw a male wearing a dark gray or dark blueish shirt and pants, so that kind of stood out. And then when I saw this male, he reached behind him, like his waistband with his right hand, and I saw him pull out an object and then he put it back under his shirt and then he pulled it out again and then that's when I saw the barrel of the gun. And at that point I was like -- I told my partner, 'Hey, gun, gun, gun.' And that's when we deployed out of the vehicle utilizing cover with our doors."

Officer B described the Subject's behavior as "kind of irate and erratic" and observed him reach for his waistband "very aggressively and then he, like, looked back at us. And as soon as he looked at us and when he put the object away, he pulled it out again and that's when saw -- I noticed it was a barrel of a gun. He never stopped looking at us. And then he kept fidgeting around."

Officer B advised investigators that he/she unholstered his/her pistol because he/she observed the Subject in a public space waving a "semi-auto black handgun," which could cause "immediate imminent harm or death or, you know, to the public or to the citizens or to my partner or I."

As Officer B was exiting the vehicle, Officer C shouted, "He has a gun, he has a gun, he has a gun" and also exited the vehicle. Officer C stood behind his/her open door, unholstered his/her pistol and held it in a two-handed grip.

According to Officer C, it was not until after he/she exited the vehicle that he/she first observed the Subject holding a black pistol and he "knew, you know, the tactical situation could escalate to the point where deadly force could be justified, so I unholstered my handgun. I'm seeing the [Subject]; he is pointing in my direction an object what appears to be obviously a handgun. My partner is screaming, 'handgun,' so I'm believing that he has a handgun. Me at this time, my process was immediately the background. Right in the corner where he's standing, there is a restaurant and there is civilians right behind him."

At 1103:00 hours, Officer B stood next to his/her open door as the Subject walked south along the west sidewalk, in the officers' direction. Multiple pedestrians were walking and standing near a restaurant.

The investigation determined that at approximately 1103:00 hours, the Subject was approximately 225 feet away from the officers.

According to Officer B, "He's continuing walking towards us, so he kind of jumps into the number two lane of the southbound traffic [...] walking towards a crosswalk. And then I start giving him commands."

According to CD records, at 1103:05 hours, Officer B broadcast, "Airship he has a gun pointed at us. He's walking southbound." Officer B's radio remained keyed as he/she shouted, "Drop the gun. Drop the," over the radio frequency.

According to Officer B, he/she was about to broadcast the "direction for officers responding and I keyed the mike and then I -- my mental reaction changed, because I saw him pointing the gun at us. And then when I said that to my partner, I think that was broadcast, I think. And then when that was broadcast, I think after that the RTO put out the help call."

At 1103:05 hours, Officer A unholstered his/her pistol and held it at the low-ready position in a two-handed grip as he/she stood behind Officer C, along the passenger's side of the police vehicle.

According to Officer A, "At that point the [Subject] brought up a -- a -- what -- what appeared to be a black semi-automatic handgun. He pointed it at us. That's when I withdrew my firearm, because I had multiple citizens reporting there's a man with a gun, I saw the [Subject] with what I believed to be a gun, and he was pointing it at us." "I was

scared that he was gonna shoot myself and [other] officers, and so I unholstered to be ready.”

At 1103:12 hours, CD simulcast, “All units, officer needs help [...] Suspect is pointing the gun at the officers.”

At 1103:16 hours, the Subject stepped off the sidewalk into the roadway and continued to walk toward the officers. Vehicles travelling south stopped as the Subject blocked the number two lane of traffic.

According to Officer B, the Subject was “walking in, like, a zigzag motion. He's waving the gun around. And the barrel is, like, pointed at citizens and pointed towards us. And then he continues walking towards us and I believe he stops like right before the sidewalk -- I mean, the crosswalk and he's, like, in the number two lane. And then -- and then at that point he kind of stops and then turns around and goes back on the sidewalk and then -- Well, actually before that, he's in the number two lane facing us still.”

As the air unit continued to orbit overhead, the TFO observed the Subject “holding the gun in both of his hands with his arms extended out, facing south -- eastbound towards the [...] officers [...].”

The investigation determined the Subject walked within approximately 110 feet of the officers as he stood in the roadway near a crosswalk.

The Subject turned to his right and stepped onto the west sidewalk and faced the officers' direction. Officers B and C ordered the Subject multiple times, “Drop the gun.” Officer B shouted, “Drop that [expletive] gun dude,” and, “Get on the ground.”

Officer B advised investigators that he/she used profanity toward the Subject because he “wanted to just let the [Subject] know, like, I'm being stern right now, like I'm being serious. ‘Don't -- don't reach for the gun.’ Like I'm being real serious right now.”

According to Officer C, at one point the Subject pointed the pistol in his/her direction, and for approximately 15 to 20 seconds the pistol moved “up and down as in like when you shoot a firearm when you get that recoil.”

Although he/she did not hear the sound of gunfire or see muzzle flash, Officer C believed that the Subject was shooting at him/her and stated, “I thought I was going to die right there. I thought, you know, to protect myself, I was going to shoot at that time, but I didn't have the proper background. And, you know, at that time I honestly thought I was probably being shot at. I was just waiting to hear the rounds hit off the car. That's what I was just waiting like -- I'm like he's -- I'm being shot at, being shot at and, you know, I was scared for my life at that time.”

Officer C advised investigators that he/she believed that the Subject was shooting at him/her. He/she aligned the sights of his/her pistol on the Subject and placed his/her finger on the trigger.

Due to the angle in which Officer C held his/her pistol and the position of his/her BWV camera, there is no video which depicted Officer C with his/her finger on the trigger.

At 1103:32 hours, CD broadcast, "All units, officer needs help [...]. Suspect is (Inaudible) wearing a blue shirt, light blue shorts, pointing the gun at officers."

At 1103:33 hours, as the officers stood behind the cover of the police vehicle, a citizen, Witness D, can be heard shouting, "BB gun, BB gun." Witness D walked toward the officers along the east sidewalk. Officer C shouted, "Get away, from the, get away."

Witness D pointed west and again stated, "(Inaudible) BB gun, he's got a BB gun." Officer A directed Witness D to, "Come over here." Witness D repeated the Subject had a BB gun. Officer A asked Witness D how he knew it was a BB gun.

Officers B and C both stated, "We don't know that. We don't know that." Witness D stated, "(Inaudible) BB gun, he showed me." Officer A asked, "He showed you it's a BB gun?"

Investigators interviewed Witness D, who stated that prior to the officers' arrival, the Subject showed him what he believed be a BB gun. Witness D described the pistol as being "all taped up and it -- it had that orange thing in the middle."

Officer B advised investigators, "As far as training, like I know that BB guns can look identical. I have no way to identify whether it's a fake gun or a real gun. Just the way it looked to me was a real gun."

According to Officer C, the pistol appeared to be a black semi-automatic gun. "I hear someone scream out, 'It's a BB gun,' or something like that. And I yell out, 'We don't know that. We don't know that.' In my head, I was thinking it's probably another suspect that's with him. That's what I'm thinking. Like, you know, from avoiding us from making contact with him or arising it to a different type of situation. So, at this point I kind of said, 'We don't know that.'"

Officer B observed the Subject "waving the gun around and then, you know, pointing it at ped -- citizens. He walks back on the west curb [...] and starts walking a little northbound."

According to Officer C, the Subject "puts the gun in his front waistband or front right pocket -- I don't recall -- as he turns to walk again -- I'm sorry. To walk eastbound [...]."

The Subject turned and walked north in the direction of Officers D and E who were responding south, with their emergency lights and siren activated.

Officer B advised investigators when the Subject started walking north, he/she and his/her partner transitioned from apprehension to "containment mode."

Officer B waved his/her left hand and shouted, "Stop, stop, stop." Officer B pointed toward the Subject and shouted, "Right there," to alert Officers D and E of the Subject's location as they arrived at scene.

According to Officer E, "I remember that we arrive there and we -- we saw some officers across from us. And we saw them, like, putting up their hands in a "stop" motion. So I told my -- my partner -- I told him, 'Stop, stop, stop.'"

As Officers D and E approached, Officer D stated, "Suspect's right there." Officer E replied, "I see him." Officer D parked facing south, along the center median.

While still inside the vehicle, Officer D stated to Officer E, "It's a, hey, I don't think it's real, partner," referring to the Subject's pistol.

According to Officer D, "My impression was, through my multiple encounters, homeless people don't tend to have real weapons. But as soon as I realized that he was racking the handgun and it -- it looked like the hand -- handgun was being racked, I immediately identify that as a real weapon, and -- and that's when I un -- unholstered."

Officer D advised investigators that he/she observed the Subject holding a "black steel semiautomatic pistol with a chrome barrel" in his right hand waving it around, pointing it at citizens on the street. Officer D exited the vehicle and immediately unholstered his/her pistol because he "felt the tactical situation escalated to the point where deadly force may have been justified."

Although Officer D observed the Subject pointing a pistol at citizens, he/she decided not to fire because, "my target was totally covered -- my background was really, really covered, so I -- I didn't have a clear shot."

Officer D advised investigators that as he/she arrived at scene, he/she and Officer E encountered the Subject who was pointing a pistol in their direction and for tactical reasons they did not "go Code Six" (broadcast that they had arrived on scene).

At 1103:58 hours, Officer E opened the passenger door and while still seated he/she unholstered his/her pistol. Officer E briefly remained seated before he/she exited the vehicle and redeployed along the driver's side of the vehicle, next to Officer D.

According to Officer E, "So we stopped. And then we see the [Subject] to our right side. And that's when we immediately get out of the car. And we saw he has a handgun in his hand. And he's waving it around, pointing at everyone. So I unholster because he has a gun and I -- I reasonably believed that I might have to use it to defend myself. And -- or someone else."

Officer E stated that the muzzle of the Subject's pistol "was pointed at -- it was pointed at, basically, the cars passing by, at other officers, from what I could tell. He's moving it everywhere in a 180-degree direction. I remember he looked in my direction. And the gun, at one point, was facing towards my direction, but I -- I took cover behind the door. And at -- also, behind -- at that moment, there was also a family near us. So I couldn't really go on target. So, I thought the best thing was to just take cover."

Officer E advised investigators that he/she never pointed his/her pistol at the Subject because "at that same instance, there's a -- a family vehicle. I see a family inside. There's about three people in the vehicle and they're ducking their heads. And the

[Subject's] about 15 feet away from them and on the other side. So, I would have covered them. And behind him, the background, there was a business, and I could see people inside there. So, I didn't really have much of a -- a good target."

At 1104:01 hours, Officers B and C were still standing near their vehicle when Officer B asked, "Hey, want to roll up?" Officer C replied, "Yeah go, go, let's go, let's go," as he/she stepped around his/her open passenger door and began to move forward on foot. Officer B simultaneously transitioned his/her pistol into his/her left hand and sat in the driver's seat.

According to Officer C, he/she left cover after the Subject had his back toward them and he would have been unaware of the officers' position. Officer C stated, "So armed suspects, we usually like going containment mode, not apprehension obviously because he's armed. At that point when my partner said, 'Are we rolling?' you know, we made the decision to keep eyes on him, not so much to apprehend him, but just to kind of keep eyes on him. And if -- you know, doing the containment mode, if he goes into a business, you know, we don't know if that could become a hostage situation, especially being with all those businesses there. So, yeah, my partner said, 'Are we rolling?' [He/she] asked me and that's when I said, 'Yes.' So back to your question, I think it was my partner and I agree on approaching the [Subject] from obviously a distance. There was no need to go apprehension. If there was that situation where he ran into that [restaurant] it would be completely separate. Because I know victims -- it could be a hostage situation and he could put other civilians at risk at that point."

Officer C stated that he/she believed that he/she was going to meet Officer B at the front of their vehicle, and they would approach the Subject on foot. Officer C was "surprised that [Officer B] got in the vehicle because initially I thought [Officer B] was going to go alongside with me."

At 1104:06 hours, Officer C began to run north, toward the Subject, with his/her pistol in his/her right hand. Officer B simultaneously drove toward the Subject with his/her pistol in his/her left hand.

According to Officer C, "I figure we're going to start -- you know, tactically start walking up on the [Subject] with a safe distance and I was going to hug the right -- the curb on the right side, which is the east side, because I saw cars. So, I started running, but then I believe we had some sort of miscommunication -- my partner and I. So, [he/she] got in the car. [He/she] starts driving up, which is mid-block not too far from me. At this point when I heard the car, I was like, I think [he/she] understood we're getting in the car. So, I kind of adjusted. So, I just ran behind the car as [he/she] drove the vehicle."

Officer C advised investigators the entire time he/she ran with his/her pistol it remained in his/her right hand, along his/her thigh with his/her finger along the frame, pointed toward the ground. Officer C stated, "I know the Department doesn't encourage us running with -- with handguns during a foot pursuit, but there's an exception during a situation like this one. He's armed, so at any point he could turn around and start shooting. You know, I just felt at that moment I cannot holster if I'm, you know, obviously running towards the direction of where the [Subject] was. And at that point I have no cover."

Officer C believed he/she remained close enough to Officer B in the police vehicle to “render aid in case he/she did get shot, I’m there. So, I knew if I go to the sidewalk, I wouldn’t be able to render any aid if [he/she’s] in that black and white or if I need to extract [him/her] from the driver side. So, I knew I had to go to where he/she was at.”

According to Officer B, “I wanted to move the car right away, so that we can utilize that as our cover still and we didn’t lose cover. And then so I move the shop up. I knew my partner was behind me. I knew [he/she] was going to run up behind me -- behind the shop and I knew [he/she] had the shop in front of [him/her], so that way [he/she] had that as cover as [he/she] was approaching from behind me. That way we weren’t both trapped in, like, a confined area.” Officer B initially intended to “roll up methodically kind of. However, I saw civilians -- citizens coming his direction.” After he/she observed the citizens, Officer B accelerated toward the Subject. Officer C’s BWV captured Officer B driving towards the suspect. The investigation established that the police vehicle did not provide Officer C with continuous cover from the Subject.

Officer B stated, “I just made a decision that I need to get there now -- because he could shoot these citizens -- that are (Unintelligible) like ten feet away from him. Because they were in their cars and I don’t know if they were, like, realizing what was going on.”

Officer B advised investigators that he/she drove with his/her pistol unholstered because he “didn’t know if he was going to point that gun as I was approaching. And if he did, I wanted to be ready to protect myself or protect other citizens around, so I kept it unholstered for a quicker reaction.” Officer B did not believe the muzzle of his/her pistol covered him/herself or his/her partner at any time. Officer B stated that he/she was trying to keep his/her pistol “towards the middle of the car and towards, like, the engine block. So that way just in case something happened, it wasn’t like -- if there was a negligent or accidental discharge or whatever, it would stay -- it would stick in the car and not go anywhere else.”

As Officers B and C repositioned themselves, Officers H and I arrived in their police vehicle with their emergency lights and siren activated. Officer I pointed south and shouted, “He’s right there. He’s right there. (Inaudible) sidewalk,” and, “Right here on the sidewalk. Right by the [restaurant].”

According to Officer I, as he/she and Officer H arrived at scene, they observed the Subject with a pistol and immediately sought cover.

According to Officer H, as they arrived at scene, he/she observed the Subject armed with a pistol and he/she did not have an opportunity to update their unit status. Officers H and I parked facing south, in the north lanes of traffic, and exited their vehicle. Both officers unholstered their pistols and stood behind their vehicle.

According to Officer H, “As we approached a little closer, I did see him on the right-hand side. I saw the gun in his hand. I put the car in park and unholstered my weapon. I didn’t have a clear view, so I didn’t ever put my finger on the trigger; it was along the rail. And I was at a ready -- a low ready because there was cars in front of me and I

knew that, if something were to go sideways, I -- I didn't want anybody injured. So, I didn't have -- I didn't go on -- on target because I -- I wasn't sure of my target.”

According to Officer I, while responding to the call, an officer broadcast the Subject had a gun. As Officer I arrived at scene, he/she observed the Subject and unholstered his/her pistol because he “believed that the situation was gonna escalate to the point where I needed to possibly use deadly force.” Shortly after he/she unholstered, Officer I observed the Subject “raise his hand. And I can't tell if it's his left or right hand, but I see a gun in his hand, and it's pointing at the direction of the officers to my left [Officers D and E].”

At 1104:08 hours, as Officers B and C closed the distance on the Subject, Officer A broadcast over the Traffic Division frequency, “I have a citizen reporting the suspect showed him that it's a BB gun.”

Officer E stood behind his/her vehicle and shouted, “Put the gun down, put the gun down.”

According to Officers B and C's digital in-car video (DICV) recording, at 1104:14 hours, Officer B stopped the vehicle facing the Subject in the south lanes of traffic. The Subject continued to walk along the west sidewalk and ignored Officer E's commands. The Subject raised his right arm and pointed the pistol toward the numerous motorists as well as in the direction of Officers D, E, H, and I. The Subject also pointed the pistol in the direction of Officers F and G as they arrived at scene.

Officer B advised investigators, “And as I'm putting it in park, I see him still facing northbound on the sidewalk and he points a gun at this van that's approaching southbound in the number two lane. And then he kind of points it at -- I think it was at the van or the car right behind her. And then at that point I jump out of the car, ‘Hey, drop the gun. Drop the gun.’ And then he kind of puts it towards his side.”

At 1104:15 hours, Officer B exited the vehicle and immediately transitioned his/her pistol to his/her right hand. Officer B stepped around his/her open door, assumed a two-handed grip on his/her pistol and ordered the Subject, “Drop that gun, drop that gun.”

Officers F and G exited their vehicle and unholstered their pistols. Officer F stood behind the driver side of the vehicle as Officer G stood in the apex of his/her open door.

According to Officer F, as his/her vehicle came to a stop, he/she observed the Subject point a pistol at the other responding officers “and then he pointed it at my partner and myself direction.” Officer F unholstered his/her pistol because “We already knew that this could escalate to deadly force.”

Officer G advised investigators that as he/she arrived at scene, he/she observed the Subject pointing a pistol in his/her direction and “unholstered my gun because I felt the situation was becoming a deadly force situation.”

At 1104:18 hours, the Subject ignored Officer B's commands and continued to walk north. The Subject briefly lowered the pistol along his right thigh as he turned his upper body and appeared to look in Officers B and C's direction.

Simultaneously, Officer C ran north on toward his/her vehicle. Officer C ran up from behind his/her vehicle and along the passenger's side and assumed a two-handed grip on his/her pistol. Officer C shouted, "Drop that gun."

Officer C advised investigators, "As I'm running up, I see the [Subject] pointing the gun clearly at officers that were arriving at scene, and they were also mid-block, and they were coming westbound [...] and deploying on him. And as he's -- as officers are approaching and deploying, he's pointing the gun with his right hand and pointing it directly at them. And I'm running up and I'm thinking he's -- he's shooting at them. That's what's in my head was like he's shooting at them, because he kept pointing -- holding it."

At 1104:19 hours, the Subject extended his right arm and pointed the pistol in Officers B and C's direction. Officer B fired one round at the Subject.

The investigation revealed that Officer B fired one round at the Subject from approximately 63 feet. The background was a wrought iron gate and a cement wall.

Officer B recalled that before he/she fired, the Subject was facing him/her, looking in his/her direction with his arm extended and "He kind of sways the barrel towards my partner and then he points it towards me, and I just see the barrel pointed right at me and then that's when I shoot. After I shot, I saw the suspect fall to the ground and the gun fall out of his hand."

Officer B believed that the Subject was going to shoot him/her or his/her partner when he/she aimed at the Subject's center mass and fired one time. Immediately after Officer B fired, the Subject and the pistol began to fall to the ground.

At 1104:20 hours, 0.614 seconds after Officer B fired, the Subject was still falling to the ground when Officer C raised his/her pistol from the low-ready position and fired one round.

According to Officer C, the Subject was facing his/her direction with his arm extended, pointing the pistol at him/her. Officer C believed that the Subject was shooting at him/her when he/she aligned his/her sights and aimed his/her pistol at the Subject's center mass, and he/she fired his/her first round. Officer C fired to protect himself/herself and his/her partner from being shot.

At 1104:21 hours, after Officer C fired, the Subject and the pistol fell to the ground. The Subject rolled onto his right side as Officer C fired a second time.

The investigation determined that Officer C fired two rounds at the Subject in 1.145 seconds from a distance of approximately 71 feet.

Investigators determined that the background for both rounds fired by Officer C was a wrought iron gate and cement wall.

According to Officer C, after he/she fired his/her first round the Subject was "going down with his handgun, so I figure as he's going down, he's doing the motion as facing the officers that were -- had approached him -- that he was initially pointing the gun at, I thought he's going to shoot at them."

Officer C advised investigators that the Subject was on his hands and knees as he extended his right arm and pointed the pistol toward the responding officers. Officer C believed the Subject was "going to try to shoot them as he's going down."

Surveillance video shows that the Subject did not extend his right arm and point the pistol toward the responding officers while on his hands and knees. Then the Subject rolled onto his right side facing away from the officers and then into a supine position.

Officer C advised investigators that he/she never observed the Subject drop the pistol and "At that time I was just scared for my life. And, you know, I shot -- I fired those two shots for -- to protect, like I said, myself and my partner and the other officers."

Officer C stated that he/she had a right-side profile of the Subject and aimed at his center mass. Officer C "pressed the trigger slowly and tried to get my best shot to stop his actions." Officer C believed that his/her round struck the Subject on "the right side of his like ribs."

Officer C realized that the Subject was no longer holding the pistol after he/she fired and the Subject was on the ground "facing up and I have, you know, a clear view of him. So, I saw the black object. That's when I saw that's the gun. That's when we decided to leave our cover and take him -- well, approach him and simultaneously the other officers came up and took him into custody and were verbalizing."

According to Officer H, he/she was looking toward the Subject when he/she heard what sounded like one gunshot and observed the Subject drop the pistol and fall to the ground. Officer I observed the Subject pointing the pistol toward the officers to his/her left when he/she heard approximately three gunshots.

Officer G observed the Subject pointing the pistol in his/her direction when he/she heard two gunshots and observed the Subject on the ground.

Officers D, E, F, and the TFO in the air unit advised investigators that they were looking away from the Subject when the OIS occurred.

At 1104:24 hours, three seconds after the OIS, the TFO broadcast, "Control, suspect is down, suspect is down. Looks like officers are moving up on him. Looks like a possible OIS. Can I get an RA [rescue ambulance] enroute please?"

As the TFO completed his/her broadcast, Officer G holstered his/her pistol and attempted to broadcast, "Shots fired. Officer needs help." According to CD records, Officer G's broadcast was not received.

After attempting to broadcast, Officer G unholstered his/her pistol a second time because he “still didn't see the [Subject] -- I unholstered, because I didn't know if he was either hiding or if he had been shot. And so that's when I started going towards the backup -- another vehicle. I took cover there as I peeked over. And I saw that the [Subject] was down.”

Simultaneously, at 1104:24 hours, Officers B and C held their pistols at the low-ready position and walked side by side as they approached the Subject. Officer B shouted, “Don't reach for that gun. Don't reach for that [expletive] gun.” Officer C shouted, “Don't reach.”

Officer B advised investigators that he/she used profanity toward the Subject because “through my experience, I've found it -- used for that particular reason to let them know that you're serious and you're being stern that they usually -- like they listen.”

According to Officer C, “The reason we decided to approach the [Subject] and not wait - - for an actual shield, you know, my initial thought process was probably like my partner's was to render aid to the [Subject]. Because I know if we waited for a shield and no one had it there, you know, obviously time is passing by and, you know, we don't have time to, you know, have the ambulance to render aid. So initially, yes, I know the handgun was within arm's reach, but I think at that time I felt it was safe enough to approach him to take him into custody, handcuff him and, you know, request the ambulance so they could render first aid.”

At 1104:27 hours, Officers D, E, F, G, H, and I approached the Subject. Officer D announced, “I got gun,” as he/she took a position next to the pistol dropped by the Subject.

The Firearms Analysis Unit determined the Subject's pistol to be a Sig Sauer-style replica airsoft pistol.

34 seconds after the OIS, at 1104:55 hours, Officer B broadcast a second request for an RA to respond for “a male conscious and breathing, gunshot wound to the abdomen approximately 40 years of age.”

41 seconds after the OIS, at 1105:02 hours, Officer E handcuffed the Subject with the assistance of Officer I. According to Officer E, he/she completed a “quick waistband search to make sure he didn't have other weapons.”

The Subject was placed on his right side by Officers E and I as they repeatedly encouraged him to remain calm and assured him paramedics were on the way.

Officer I asked Officer E if he/she knew the location of the Subject's injuries. Officer E identified a wound to the Subject's front right side. Officer E felt the Subject's neck and determined he still had a pulse.

Officer I stated, “So we put him on the right because, like, that's the side that the gunshot wound appeared to be on. So, obviously, we wouldn't create any issues of

blood flowing into the rest of his organs. So, because the wound was on the right, we tilted him to the right. It's just supposed to assist with [...] a gunshot wound or anything else, to allow him to be able to continuously breathe and not apply any pressure to his organs. The reason he was pushed -- put on his right side, though, was because that's where we perceived the gunshot wound to be. Normally, you'd want to put him on his left side. But if he had been put on his left side, since the wound was above -- above the left, he could have bled out internally."

Officer I advised investigators that he/she did not have time to don gloves and stated, "I did have it in -- in my rear pocket -- in my left rear pocket. Again, but because of the pool of blood and -- and how quickly we needed to get him in handcuffs and -- I -- I saw the -- the -- the -- the -- I guess the -- the circle of blood to that position. My concern was just, at that point, stopping -- stopping the blood, putting as much pressure as I can on the wound."

According to Officer I, "I immediately go -- put my left hand to where I believe the gunshot wound is. And my left hand stays there the entire time, applying pressure. My right hand is on the left shoulder of the suspect."

Officer I stated, "I can see that he's breathing. He's twitching a little bit. At one point I asked the officer that's with me to check for a pulse. He/she says that there is a slight pulse still there. So, at that point my main concern is the -- the gunshot wound, where I believe it is -- which I believe was his lower right abdomen area is where I noticed the -- the blood. So, I'm just -- continue to apply pressure. Because that's my main concern is -- is keeping pressure on -- on what I believe to be the wound. I didn't think to -- to -- to do chest compressions, again, because my concern was, one, he's still slightly breathing. I can still see that he's somewhat reactive to -- to what I'm saying. And I think that if I were to turn him over and start chest compressions, I'm gonna cause an issue with what I believe to be the gunshot wound in his stomach. So my focus is just applying pressure, preserving life in -- in that -- in that method."

According to Officer I, based on his/her level of medical training, there was nothing else he/she could have done for the Subject.

Investigators interviewed Witness G who observed portions of the OIS. According to Witness G, after the OIS, he observed officers "holding the wounds in. You know, holding the gunshot wounds."

According to Sergeant A's BWV, 46 seconds after the OIS, at 1105:07 hours, he/she arrived at scene and identified himself/herself as the incident commander (IC). Sergeant A took possession of Officers B and C's BWV cameras and obtained their public safety statements (PSSs).

According to Officer D's BWV, at 1109:51 hours, Los Angeles Fire Department (LAFD), RA arrived at scene.

At 1111 hours, at the request of LAFD personnel, Officer E removed the handcuffs from the Subject as Officer I looked on. After the initial assessment by LAFD personnel, the Subject was placed into the RA in the presence of Officers D, E, and I.

At 1116 hours, the RA began the transport of the Subject to a hospital. No officers accompanied the Subject inside the RA during the transport to the hospital.

According to Firefighter Paramedic (FF/PM) A, due to the type of trauma, the Subject required immediate attention at a medical center. FF/PM A stated, "My captain was driving. And we said -- he stopped and said, 'Hey, we need an officer with us.' So we yelled, 'Hey, we need an officer with us.' No one was able to go with us at the time. So instead of waiting, you know, we -- we, you know, were already in the ambulance, and we -- we went to the hospital."

FF/PM A advised investigators that the Subject received cardiopulmonary resuscitation while being transported to the hospital and was "going into asystole, no -- no electrical activity in the heart. He didn't talk. He wasn't breathing. He -- he was -- he was dead."

According to Sergeant A, as he/she observed the RA departing the scene, he/she was informed by a member of the LAFD that no officers were inside the RA with the Subject and other LAFD personnel. Sergeant A then "assigned an officer. I think it was [Officer J]. I said, 'Hey, you need to ride in that ambulance.' [Officer J] started run -- running up to try to catch the ambulance. And while the fireman attempted to broadcast to them to wait for the officer to get into and join the RA, but they advised that -- that they weren't gonna stop, I guess, due to the seriousness of the condition of the [Subject]. So then I told the officers to make sure they -- they -- they rode with -- basically, went to the hospital. And I -- my understanding was they followed the RA, and then they picked it up from there."

Officers J and K arrived at the OIS location when Sergeant A directed them to follow the RA to the hospital. Officers J and K followed the RA in their police vehicle.

Upon arrival, Officers J and K accompanied the Subject and LAFD personnel inside the hospital. Despite the life-saving efforts by the medical staff, at 1145 hours, the Subject was pronounced dead.

BWV and DICV Policy Compliance

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

Los Angeles Board of Police Commissioners' (BOPC) Findings

The BOPC reviews each Categorical Use of Force (CUOF) incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: tactics of the involved officer(s), drawing/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 Officers B and C's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers B and C's lethal use of force, round one for each, to be In Policy. The BOPC found Officer C's lethal use of force, round two, 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 Subject and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;

- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus subject 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, subjects, persons in custody, subjects 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 subject leading up to the use of force.

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

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

A. Tactics

Tactical De-Escalation Techniques

- Planning
- Assessment
- Time
- Redeployment and/or Containment
- Other Resources
- Lines of Communication (Los Angeles Police Department, Use of Force - Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016).

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 – Officers B and C worked together on two prior occasions and have discussed tactics, including contact and cover roles, containment versus apprehension mode, and equipment, such as their hobble restraint device (HRD), tourniquets, and pistols.

After the OIS, Officers B, C, D, E, F, G, H, and I approached the Subject, who was lying on the ground a few feet away from his pistol. Officer D took a position next to the Subject's pistol as Officers E and I handcuffed him.

The BOPC considered that the Use of Force Review Board (UOFRB) noted that Officers B and C approached the Subject before developing a plan with Officers D, E, F, G, and H. Although the UOFRB would have preferred that the officers had developed a plan to apprehend the Subject, they noted that he was no longer armed, and that the pistol was a few feet away from him. The UOFRB also noted Officer B's assessment of the need to render medical aid.

Assessment – According to Officer C, the Subject pointed the pistol in his/her direction for approximately 15 to 20 seconds, moving it up and down as if it was recoiling from being fired. Although he/she did not hear gunfire or see muzzle flash, Officer C believed that the Subject was shooting at him/her. Officer B stated that he/she recalled the Subject pointing the pistol in his/her direction during this time, as well as waving the pistol in the direction of citizens in the area. Both officers

acknowledged their intentions of discharging their pistols at the Subject but did not do so due to pedestrians and vehicles in his immediate area.

Time and Redeployment/Containment – As the Subject closed the distance from approximately 225 feet to 110 feet, Officers B and C positioned themselves behind their police vehicle's ballistic door panels. The Subject then turned around and began walking toward other pedestrians and arriving officers. In response, Officer C stepped around his/her open passenger door and began to run north. Officer B drove past Officer C, stopping approximately 63 feet away from the Subject.

According to Officer C, he/she left cover after the Subject turned his back toward the officers. Officer C believed that the Subject would have been unaware of the officers' position. Officer C also believed that he/she was going to meet Officer B at the front of their vehicle and approach the Subject on foot together. According to Officer B, he/she wanted to move the police vehicle right away to use it as cover. Officer B initially intended to drive up methodically with his/her partner behind the cover of the police vehicle. However, once he/she observed the Subject approaching citizens, he/she became concerned that a bystander may be shot and accelerated toward the Subject.

The UOFRB noted that Officer C intended to use the vehicles parked along the east sidewalk as cover while approaching the Subject. The UOFRB also noted that he/she appeared to forgo the parked vehicles after Officer B drove toward the Subject. Although Officer C was momentarily without cover as he/she crossed the intersection, the UOFRB opined that the police vehicle's position afforded him/her cover from the Subject. Additionally, although Officer C did not have the benefit of cover when the OIS occurred, he/she had intended to open and use the police vehicle's front passenger door but was unable to reach it in time.

Other Resources and Lines of Communication – After speaking with witnesses, Officer A requested a patrol unit for a man with a gun. After being directed to and observing the Subject, Officer A upgraded his/her request to a backup and provided the Subject's description. Several patrol units, a supervisor, and air support responded to the scene.

When Officers B and C arrived at the scene, Officer A approached the passenger side of their vehicle, pointed in a northwest direction, and stated, "I think he's that male [...] walking northbound [...]." Approximately three seconds after stopping to speak with Officer A, Officer B observed that the Subject was armed with a pistol and announced, "Oh, he got the gun!" As Officer C exited the police vehicle, he/she advised, "He has a gun, he has a gun, he has a gun!" Officer B then advised the air unit, "Airship he has a gun pointed at us. He's walking southbound." Officer B's radio remained keyed as he/she shouted, "Drop the gun! Drop the!" In response, CD simulcast, "All units, officer needs help [...]. Suspect is pointing the gun at the officers." After the Subject stepped into the roadway, as he walked toward the officers, Officer L broadcast, "[M]ake it a help call," and he/she advised CD that the Subject was pointing a gun at the officers.

Multiple times, Officers B and C ordered the Subject, "Drop the gun!" and "Get on the ground!" Despite the commands, the Subject maintained possession of the gun.

As Officers B and C stood behind cover, Witness D approached and advised them that the Subject had a BB gun. As Officer C directed Witness D away from the scene, he repeated his belief that the Subject had a BB gun. In response, Officer A asked Witness D how he knew, as Officers B and C stated, "We don't know that." Witness D told Officer A that the Subject had shown him the BB gun. In response, Officer A broadcast this information over the Traffic Division frequency approximately 10 seconds before the OIS.

As Officers D and E were responding, Officer B waved his/her left hand and shouted for them to stop. He then pointed toward the Subject and shouted, "Right there!" to alert Officers D and E of the Subject's location.

Officers B and C determined they needed to move closer to the Subject. Officer B asked, "Hey, want to roll up?" Officer C replied, "Yeah go, go, let's go, let's go!" The officers then moved toward the Subject. After approaching the Subject, Officer B exited the vehicle and ordered him, "Drop that gun, drop that gun!" The Subject ignored Officer B's commands and continued to walk north. As Officer C ran along the passenger side of his/her police vehicle, he/she shouted, "Drop that gun!" However, the Subject ignored Officer C's commands, extended his right arm, and pointed the pistol in Officers B and C's direction. The Subject's actions limited the officers' ability to de-escalate the situation before the OIS. After the OIS, Officers B and C ordered the Subject not to reach for the gun as they approached and apprehended him.

The BOPC considered that the UOFRB noted that before Officers B and C arrived at the scene, a witness had told Officer A that the Subject had "mental problems." Although the UOFRB would have preferred that Officer A relayed this information to Officers B and C when they arrived at the scene, the UOFRB noted that within approximately three seconds of their arrival, the Subject escalated the incident by pointing his pistol at the officers. The UOFRB also noted that before the OIS, Officers B and C both ordered the Subject multiple times to "drop the gun." To avoid the potential for confusion and facilitate the accomplishment of other tasks, the UOFRB would have preferred that the commands were issued by one officer. The UOFRB further noted that Officers B and C had separate interpretations regarding the meaning of "roll up." Although the UOFRB would have preferred a mutual understanding of the term, they opined that the momentary separation caused by the misunderstanding was quickly rectified once Officer C adjusted his/her course of approach from the east sidewalk to the police vehicle.

During the BOPC's review of this incident, it also noted that Officers B and C had separate interpretations regarding the meaning of "roll up." The BOPC believed that the confusion was a product of the officers' limited planning and communication. Unfortunately, this set in motion a sequence of events that left Officer C without cover when the OIS occurred. Rather than reenter the police vehicle, Officer C chose to run across an intersection toward parked vehicles, leaving him/herself exposed to the Subject. While the BOPC understood that the

Subject had turned and was walking away from the officers, nothing prevented him from changing course and re-engaging them. Also, while Officer B could have pulled alongside his/her partner and encouraged him/her to get in or remain alongside the vehicle, Officer B sped forward, leaving his/her partner exposed. Officer B then chose to exit his/her police vehicle and move away from cover while confronting a Subject whom he/she believed to be armed with a pistol. Although the BOPC understood that Officer B was attempting to change his/her angle, there was no reason why Officer B could not have used portions of the police vehicle as cover. As such, the BOPC determined that the officers' tactics regarding planning and lines of communication were a substantial deviation, without justification, from Department-approved tactical training.

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

Debriefing Point No. 1 - Code Six

Officers B and C broadcast that they were responding to Officer A's backup request; however, they did not "place themselves Code Six" (broadcast that on scene) upon their arrival. Officer C picked up the police vehicle's radio microphone and brought it to his/her mouth as if to broadcast; however, the frequency was occupied.

The BOPC noted that the UOFRB assessed Officers B and C's adherence to the Department's Code Six policy. The UOFRB noted that the officers advised CD they were responding to this incident. When they arrived at the scene, Officer A was Code Six and the air unit was overhead. Although Officer C's seemingly made efforts to "go Code Six" over the air, the frequency was occupied. According to Officer B, he/she believed that Officer C notified CD that they were Code Six as they arrived at the scene. The UOFRB also noted that shortly after Officers B and C arrived, the Subject escalated the incident by pointing his pistol in their direction. As such, the UOFRB opined that it would not have been prudent for officers to update their status via their mobile digital computer (MDC). Additionally, the UOFRB opined that the officers' subsequent broadcast would have been an indication that they had arrived at the scene.

The UOFRB noted that the purpose of the Code Six policy is for officers to advise CD of their location and the nature of their activity, should the incident necessitate the response of additional personnel. Although the UOFRB would have preferred that officers had advised CD they were Code Six when they arrived at the scene, they noted that additional units, specifically the air unit and Officer A were immediately aware of their location.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, that the tactics regarding Code Six employed by Officers B and C were not a substantial deviation from Department-approved tactical training.

Debriefing Point No. 2 - Basic Firearms Safety Rules

Shortly after arriving at the scene, Officers B and C observed the Subject pointing his/her pistol in their direction. In response, both officers placed their fingers on the triggers of their pistols but did not fire.

The BOPC noted that the UOFRB assessed Officers B and C's adherence to the Basic Firearms Safety Rules. As it pertains to Officer C, the UOFRB noted that he/she observed the Subject pointing a pistol in his/her direction for approximately 15 to 20 seconds during which the Subject moved it in a way that appeared to simulate recoil. This led Officer C to believe that the Subject was firing at him/her. In response, Officer C aligned the sights of his/her pistol on the Subject and placed his/her finger on the trigger but did not shoot. According to Officer C, he/she intended to shoot but was unable due to pedestrians in his/her background. Although the investigation did not reveal how long Officer C's finger was on his/her trigger or how long he/she remained on target, based on the available evidence, the UOFRB opined that his/her actions were a substantial deviation, with justification, from Department-approved tactical training.

Regarding Officer B, detectives identified two instances when Officer B placed his/her finger on the trigger but did not fire. During their review, the UOFRB noted that Officer B's BWV intermittently captured his/her finger on the trigger of his/her pistol as it moved in and out of view. At 1103:08 hours, Officer B's pistol came into view for approximately one second and his/her finger was on the trigger. At 1103:17 hours, Officer B's pistol came back into view for approximately one second and his/her finger was along the frame.

At 1103:24 hours, Officer B's pistol came into view for approximately one second as he/she appeared to place his/her finger on the trigger. At 1103:29 hours, Officer B's pistol came back into view for approximately one second and his/her finger was on the trigger. Investigators estimated that the longest period Officer B had his/her finger on the trigger was four seconds (1103:25 to 1103:29 hours).

According to Officer B, the first time he/she placed his/her finger on the trigger he/she intended to shoot; however, a pedestrian and vehicle traffic entered his/her foreground. In response, Officer B removed his/her finger from the trigger and continued his/her assessment. Regarding the second instance, Officer B stated that his/her foreground had cleared, and he/she intended to shoot but the suspect's movements placed a pedestrian in his/her background, which caused him/her to remove his/her finger from the trigger. The UOFRB did note that from 1103:29 to 1103:40 hours, Officer B's pistol was partially visible in the driver's side blind spot mirror; however, it was inconclusive as to whether his/her finger remained on the trigger. Based on the available evidence, the UOFRB opined that Officer B's actions were a substantial deviation, with justification, from Department-approved tactical training.

During the BOPC's review of this incident, they noted that per FID, the longest period Officer B had his/her finger on the trigger was approximately four seconds. The BOPC also note that the investigation did not reveal how long Officer

C's finger was on his/her trigger. Although the BOPC expects that officers do not prematurely place nor allow their fingers to linger on their triggers, based on the distance and the need to take a precise shot, the evolving background/foreground, and the officers' self-restraint, the BOPC agreed that their actions were a substantial deviation, with justification, from Department-approved tactical training. However, it should be noted that this is a unique circumstance and firearms safety remains an issue of critical importance to the Department.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers B and C were a substantial deviation, with justification, from Department-approved tactical training.

Debriefing Point No. 3 - Cover and Concealment

As noted above, when the Subject turned and began walking toward other pedestrians and arriving officers, Officer C stepped around his/her open passenger door and began to run north, leaving himself/herself exposed to the Subject. Officer B then drove past Officer C, leaving him/her without the vehicle as cover. Officer B then chose to exit his/her police vehicle and move away from cover while confronting a Subject whom he/she believed was armed with a pistol. As indicated above, there was no reason why he/she could not have used the door frame, "A" frame, or hood/engine block of the vehicle as cover.

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

Additional Tactical Debrief Topics

Profanity – While ordering the Subject to drop his gun before the OIS and not to reach for it after, Officer B used profanity. Although not the best practice, the officer's use of profanity was not excessive or personal and was intended to gain compliance.

In-Custody Transport – After the OIS, Officers E, D, and I were present with the Subject as paramedics provided medical treatment. As the Subject was being placed into the RA, Officer D was securing the Subject's pistol, and he/she directed Officer E to secure the crime scene using crime scene tape. Paramedics then began transporting the Subject without an officer in the RA. Alternatively, Officers E, D, or I should have ridden in the RA with the Subject or found an officer to do so.

Universal Precautions – Officers E and I did not initially wear protective latex gloves while handcuffing the Subject and rendering aid to him. Approximately three minutes after the Subject was handcuffed, Officer E donned latex gloves. Alternatively, Officers E and I could have donned latex gloves before handcuffing the Subject or rendering aid.

Situational Awareness - During the BOPC's review of this incident, it was noted that as Officer C discharged his/her second round, a minivan in his/her foreground

suddenly began to move forward and then abruptly stopped. While the BOPC understands that Officer C's BWV footage may offer a different perspective than what he/she observed during the OIS, it did give the BOPC cause for concern for the occupants' safety.

B. Drawing/Exhibiting

Officer B

According to Officer B, he/she observed the Subject retrieve a pistol from his waistband, look directly at him/her and his/her partner, and then wave the pistol. Believing that the Subject was an imminent threat to him/her, his/her partner, and the public, Officer B unholstered his/her pistol.

Officer C

According to Officer C, as he/she and Officer B arrived at the scene, Officer A pointed out the Subject. Officer C then heard Officer B shout that the Subject had a gun. Officer C exited the police vehicle and observed the Subject holding a pistol. Believing that the situation could escalate to the use of lethal force, Officer C unholstered his/her pistol.

The BOPC noted that the UOFRB assessed Officers B and C's drawing and exhibiting of their pistols. The UOFRB noted that both officers observed the Subject armed with a pistol, communicated their observations to each other, and drew and exhibited their pistols in response. Based on the available evidence, the UOFRB opined that their drawing and exhibiting conformed to policy.

The UOFRB also assessed Officers B and C's decision to redeploy while holding their pistols. As it pertains to Officer B, the UOFRB noted the potential for an unintentional discharge while holding a firearm and operating a vehicle. However, the UOFRB also noted that Officer B stated that he/she pointed his/her pistol toward the police vehicle's engine block and that he/she never covered himself/herself or anyone else with the muzzle. The UOFRB further noted that Officer B's BWV footage appeared to support his/her statement. Although the UOFRB would have preferred that he/she had holstered his/her pistol, because of the possibility that he/she may have to immediately address an imminent lethal threat, the UOFRB opined that in this specific instance, it was reasonable for Officer B to drive while holding his/her pistol.

Regarding Officer C, the UOFRB also noted the potential for unintentional discharge while running with a firearm. However, the UOFRB believed that Officer C's decision was reasonable based on his/her knowledge that the Subject was armed and his/her belief that the situation could escalate to the use of lethal force. Although the UOFRB would have preferred that he/she had holstered his/her pistol, the UOFRB opined that in this specific instance, it would have been reasonable for Officer C to believe that he/she may have to immediately address an imminent lethal threat.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers B and C would reasonably believe that there

was a substantial risk that the situation may escalate to the point where deadly force may be justified. Therefore, the BOPC found Officers B and C's drawing/exhibiting to be In Policy.

C. Lethal Use of Force

Officer B – pistol, one round from approximately 63 feet, in a northerly direction.

According to Officer B, the Subject pointed his pistol at him/her and his/her partner. Fearing that the Subject was going to shoot him/her, Officer B discharged one round from his/her pistol at the Subject.

Officer C – pistol, two rounds from approximately 71 feet in a northerly direction.

Round One

According to Officer C, the Subject was facing his/her direction with his arm extended, pointing the pistol at him/her. Officer C believed that the Subject was shooting at him/her when he/she aligned his/her sights, aimed his/her pistol at the Subject's center mass, and fired his/her first round 0.614 seconds after Officer B fired. Officer C fired to protect himself/herself and his/her partner from serious bodily injury or death.

Round Two

According to Officer C, as the Subject fell to his hands and knees, he/she observed him extend his right arm and point the pistol toward the responding officers. Believing that the Subject was going to shoot at officers, Officer C discharged his/her second round 1.145 seconds after discharging his/her first.

The BOPC noted that the UOFRB assessed Officers B and C's lethal use of force. Although the UOFRB's findings were unanimous for Officers B and C's first round, they were not unanimous for Officer C's second round.

As it pertains to Officer B, the UOFRB noted that the Subject had pointed his pistol toward citizens and his/her partner. According to Officer B, the Subject then pointed his pistol toward him/her. Based on his actions, the UOFRB opined that the Subject demonstrated an apparent intent to immediately cause death or serious bodily injury to the officers or another person. Based on the totality of the circumstances, the UOFRB opined that Officer B reasonably believed that the Subject posed an imminent lethal threat that had to be instantly confronted and addressed.

As it pertains to Officer C's first round, the UOFRB noted that he/she stated that he/she observed the Subject pointing the pistol at the responding officers before turning and pointing it at him/her (Officer C). Fearing for his/her life, Officer C discharged his/her first round. Based on his actions, the UOFRB opined that the Subject demonstrated an apparent intent to immediately cause death or serious bodily injury to the officers or another person and that Officer C reasonably believed that the Subject posed an imminent lethal threat. Although the available evidence indicates that Officer C

discharged his/her first round 0.614 seconds after Officer B fired, the UOFRB attributed this to the concept of "lag time." The UOFRB opined that in the time it took Officer C to perceive, process, and respond to the threat, the Subject had been struck by Officer B's round and fallen to the ground.

As it pertains to Officer C's second round, the UOFRB noted that he/she observed the Subject on "all fours" extending his right arm at the responding officers. Officer C believed that the Subject was still armed and going to shoot the officers. In response, Officer C focused on his/her sights again and slowly pressed the trigger to get the "best shot to stop [the Subject's] actions."

The UOFRB Majority noted that per the investigation, when Officer C discharged his/her second round, the Subject had lost possession of his/her gun and was lying on his/her right side with his/her back to the officer. Rectifying the discrepancy between Officer C's perception and the investigation, the Majority again considered the concept of lag time. The Majority noted that 1.1 seconds elapsed between Officer C's first and second rounds. The Majority opined that during this time, Officer C observed the Subject extend his right arm, processed the threat, regained his/her sight picture, and responded by slowly pressing the trigger. Based on their assessment, the Majority determined that Officer C's perception was reasonable and that his/her second round was proportional, objectively reasonable, and necessary.

The UOFRB Minority disagreed with the Majority's assessment of Officer C's second round. The Minority noted that per the investigation, when Officer C discharged his/her first round, the Subject was on all fours and had lost possession of the gun. The Majority also noted that per the investigation, when Officer C discharged his/her second round, the Subject was lying on his right side with his/her back to the officer. Based on the video footage, the Subject did not reach for the gun at this point. The Minority disagreed with the Majority's consideration of lag time as a factor because the Subject made no furtive movements consistent with him attempting to rearm himself or pointing his gun at the officers. Based on the available evidence, the Minority opined that Officer C failed to accurately assess the situation and that the Subject did not have the present ability, opportunity, or apparent intent to immediately cause death or serious bodily injury when Officer C discharged his/her second round. Thus, the Minority determined that Officer C's second round was not proportional, objectively reasonable, or necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B and C (first round), in the same situation, would reasonably believe that the lethal use of force was proportional, objectively reasonable, and necessary. Additionally, the BOPC determined that an officer with similar training and experience as Officer C (second round), would not reasonably believe that the lethal use of force was proportional, objectively reasonable, or necessary. Therefore, the BOPC found Officers B and C's lethal use of force, round one for each, to be In Policy; and the BOPC found Officer C's lethal use of force, round two, to be Out of Policy.