

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

OFFICER-INVOLVED SHOOTING – 041-23

Division **Date** **Duty-On () Off (X)** **Uniform-Yes () No(X)**

Outside 08/24/23

Officer(s) Involved in Use of Force **Length of Service**

Officer A 3 years, 11 months

Reason for Police Contact

Officer A was off-duty at his/her residence. After observing the Subject acting suspiciously in the area, he/she began to monitor him. The Subject fired at Officer A resulting in an officer-involved shooting (OIS).

Subject **Deceased (X)** **Wounded ()** **Non-Hit ()**

Male: 29 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 BOPC of Police (BOPC); 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 16, 2024.

Incident Summary

On Thursday, August 24, 2023, shortly after 1100 hours, off-duty LAPD Level One Reserve Police Officer A, and his/her wife, were inside their residence. While looking out the front window, Officer A noticed a male, later identified as the Subject, walking east along the south sidewalk, past his/her residence. Officer A monitored the Subject

and observed him walking in the direction of his/her neighbor's residence, who left their garage door open.

According to Officer A, the Subject was carrying a backpack or a pouch. He appeared disheveled and had a thin build, similar to a narcotics user. As the Subject walked down the street, Officer A observed him raising his hands, talking to himself, and, at times, yelling. Based on Officer A's training and experience as a police officer, he/she formed the opinion the Subject was under the influence of something. He/she also believed the Subject was a possible burglary suspect.

According to exterior surveillance video at nearby residence, unbeknownst to Officer A, the Subject walked up the driveway of that residence and placed items, later determined to be a 9 millimeter (mm) pistol and a sweatshirt, inside a trash can. After placing the items in the trash can, the Subject walked east.

Officer A exited his/her residence and observed the Subject walking toward the front door of the location of occurrence and out of sight.

While out of Officer A's view, the Subject approached the front door and rang the Ring doorbell. The investigation determined two adults were inside the residence.

Officer A was aware a young female is usually home alone during the day. Concerned for her safety, Officer A reentered his/her residence and called her mother, who was not at home. The mother was hysterical, reporting her daughter had called her and told her, "There's a guy in front of [the] house and he/she's banging on [the] door." The mother asked Officer A for help, and said she was on her way home.

Officer A advised his/her wife he/she was going to drive down to the residence to make sure everything was okay. Officer A then retrieved his/her duty pistol and secured it in a holster on his/her right hip.

Officer A exited his/her residence, entered his/her vehicle (SUV), and drove east, in the direction where he/she last observed the Subject. According to Officer A, he/she intended to use his/her vehicle as cover if he/she encountered the Subject.

According to the surveillance video, Officer A drove east, entered the cul-de-sac and repositioned his/her vehicle facing west.

According to the surveillance video, the Subject returned to the trash can and retrieved the pistol and sweatshirt. With the pistol secreted in the sweatshirt, the Subject walked east and then stood on the sidewalk behind a silver sedan.

Officer A advised Force Investigation Division (FID) investigators, after stopping in the cul-de-sac he/she spotted the Subject, as he screamed and yelled in front of the residence. Officer A could not understand what the Subject said, but it appeared he suffered from a mental illness or was under the influence.

Officer A indicated he/she had no intention of engaging with or confronting the Subject.

While Officer A spoke with the 911 operator, the surveillance video depicted the Subject as he produced a pistol and pointed it toward Officer A while Officer A was seated inside his/her vehicle. The Subject began to fire multiple rounds in Officer A's direction.

The video from a nearby residence was motion activated and skipped forward and did not appear to record every round fired by the Subject.

According to Officer A, he/she observed the Subject fire four or five rounds at him/her. Officer dropped his/her cellphone, unholstered his/her pistol and the OIS occurred.

Due to Officer A's position inside his/her vehicle, the surveillance video recovered did not depict Officer A firing any rounds during the OIS.

Officer A described the first volley of fire as follows; while in the driver's seat, Officer A raised his/her pistol in a two-hand grip, aimed at the Subject's center mass, and fired three to four rounds through the open vehicle window.

During a review of the recorded 911 call, moments before the OIS, Officer A is heard stating, "Get outta here." Officer A did not recall making any statements to the Subject prior to the shooting.

Aside from Officer A telling the Subject to leave, there was no evidence that Officer A interacted with the Subject or otherwise provoked him prior to the Subject firing at Officer A.

According to Officer A, he/she fired two rounds and paused for approximately two seconds. The Subject continued to fire when Officer A fired a third round.

Officer A initially indicated he/she fired three to four rounds during the first volley. He/she later clarified he/she initially fired three rounds.

According to the surveillance video, after firing at Officer A, the Subject lowered his pistol and ducked down as he backed up into the driveway. Officer A then began to drive west out of the cul-de-sac as the Subject moved to the east. The Subject then turned, faced west and with a two-hand grip, raised the pistol and pointed it in Officer A's direction.

According to Officer A, before driving from the cul-de-sac, he/she feared the Subject would walk up and execute him/her as he/she sat inside his/her vehicle. Officer A drove out of the cul-de-sac at approximately 30 miles per hour. Officer A steered his/her vehicle with his/her left hand and held his/her pistol in his/her right hand. As he/she drove away and the Subject continued to shoot at him/her, Officer A fired a second volley of rounds from his/her vehicle.

Officer A described the second volley of fire as follows; As the Subject fired, Officer A aimed his/her pistol at his/her center mass and fired another three or four rounds.

Officer A indicated the background during the OIS was a residential garage. Officer A did not believe any of the rounds he/she fired struck the Subject.

Officer A believed the Subject fired at least ten rounds in his/her direction during the entire incident.

The investigation determined Officer A fired all his/her rounds from the driver's seat of his/her vehicle. The first volley of rounds fired by Officer A occurred while the vehicle was stationary, and he/she was approximately 55 feet away from the Subject. The second volley occurred as Officer A drove from the cul-de-sac and was approximately 30 feet away from the Subject.

The surveillance video indicated, after Officer A fled west. The Subject stood on the sidewalk and manipulated his pistol in a manner consistent with clearing a malfunction. The Subject appeared uninjured, and while still armed with the pistol, he walked to the front porch of the location of appearance.

After Officer A drove away, he/she turned his/her vehicle around (faced the Subject's direction) and stopped in the roadway. Officer A remained at this location and monitored the Subject until uniformed officers arrived.

The Subject remained near the front entrance of the location of occurrence and engaged responding uniformed officers in a gunfight. The Subject was subsequently killed in the gunfight and one uniformed officer was injured. There was no evidence that any of Officer A's rounds struck the Subject prior.

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

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	N/A	N/A	N/A	N/A	N/A

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 instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A's tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers A'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 In Policy.

Basis for Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;

- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

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

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

A. Tactics

Tactical De-Escalation

Tactical de-escalation 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*

(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

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

Planning, Assessment, Time – Officer A assessed the Subject’s behavior and believed the Subject was suffering from a mental illness or was under the influence. Also assessing that the Subject may be a possible burglary suspect and seeing him walk towards the front door of the residence, Officer A called his/her neighbor to obtain more information, enabling him/her to better assess the situation. Provided with information and having the belief there was a young adult home alone, who was scared of the Subject being at the front door, Officer A formulated a plan to obtain his/her service pistol, get into his/her vehicle to provide him/herself with additional cover, and locate the Subject prior to calling 911. Officer A wanted to ensure the safety of his/her neighbor while attempting to de-escalate the situation by making his/her presence known to the Subject and that perhaps his/her presence would be enough to deter the Subject. Officer A waited until he/she knew of the Subject’s exact location before calling 911. Officer A remained in his/her vehicle and monitored the Subject from a distance to give him/her additional time as he/she called 911.

Redeployment and/or Containment, Other Resources, Lines of Communication – Officer A responded to the Subject’s last known location in his/her vehicle, allowing him/her to use it as cover. After the first volley of the OIS, Officer A redeployed in his/her vehicle away from the Subject. He positioned him/herself at the entrance to the cul-de-sac, attempting to contain and monitor the Subject from a distance, while preventing any additional community members from entering the area until uniformed officers arrived. Officer A called 911 and requested local resources. Once uniformed officers arrived at scene, Officer A identified him/herself as an off-duty officer and provided uniformed officers with information of the Subject’s location.

During the review of the incident, the following debriefing points were noted:

Debriefing Point No. 1: Off-Duty Actions

- After observing the Subject walking past his/her residence, and believing him to be a possible burglary suspect, Officer A went to the front porch of his/her residence to monitor the Subject. After losing sight of the Subject near his/her neighbor’s house, Officer A returned inside his/her residence and called his/her neighbor, who advised him/her someone was “banging” on her door and her daughter was home and scared. Concerned for his/her neighbor’s safety, Officer A retrieved his/her service pistol, entered his/her vehicle and drove toward his/her neighbor’s house to locate the Subject. After locating the Subject, Officer A parked his/her vehicle in the cul-de-sac and called 911 while across the street from the Subject’s location. During the call with 911, the Subject produced a handgun and shot at Officer A while he/she (Officer A) was seated in his/her vehicle, and an OIS ensued. Officer A drove west, away from the Subject. Officer A stopped near the entrance to the cul-de-sac and monitored the Subject as he/she awaited the arrival of uniformed officers.

After considering the opinions of the UOFRB, the BOPC determined the tactics employed by Officer A were not a substantial deviation from Department-approved tactical training, and warranted a finding of Tactical Debrief.

Command and Control

Lieutenant A and Detective A monitored Officer A.

At 1219 hours, Lieutenant B notified the Department Operations Center (DOC). Force Investigation Division investigators responded and conducted the administrative investigation related to Officer A's actions. Investigators were granted access to the crime scene and monitored the collection of evidence.

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

B. Drawing/Exhibiting

- **Officer A**

While sitting in his/her vehicle and on the phone with 911, Officer A observed the Subject reach into what he/she thought was a bag, later found to be his sweatshirt, and produce a handgun. Officer A dropped his/her cell phone and unholstered his/her service pistol when he/she observed the Subject produce the handgun.

The UOFRB assessed Officer A's drawing and exhibiting of his/her service pistol. The Board opined when Officer A unholstered his/her service pistol, the incident had already escalated to where deadly force was objectively reasonable and necessary; therefore, it was objectively reasonable and within Department policy for him/her to unholster his/her service pistol.

Based on the totality of the circumstances, BOPC determined an officer with similar training and experience as Officer A would reasonably believe the situation had escalated to where deadly force would be justified. Therefore, the BOPC found Officer A's Drawing/Exhibiting to be In-Policy.

C. Lethal Use of Force

- **Volley One**

Officer A – Pistol, three rounds from an approximate distance of 55 feet, in a southerly direction.

Background – Officer A indicated the background during the OIS was a solid rock formation in between two garage doors.

While Officer A spoke with the 911 operator, the Subject produced a pistol and pointed it toward Officer A while he/she was seated inside his/her vehicle. The Subject began to fire multiple rounds in Officer A's direction. According to Officer A, he/she observed the Subject fire four or five rounds at him/her from a "...blue steel handgun." Officer A dropped his/her cellphone, unholstered his/her service pistol

while in the driver's seat, and with a two-handed grip, aimed at the Subject's center mass and fired three to four rounds through the open vehicle window.

The UOFRB assessed the circumstances and evidence related to the OIS during the first volley. In their assessment, the Board noted Officer A was actively being shot at by the Subject and responded to that threat by discharging three rounds at the Subject during the first volley. The Board opined Officer A was met by an imminent threat of serious bodily injury or death and his/her use of lethal force was objectively reasonable, proportional and necessary.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Officer A, in the same situation, would reasonably believe the use of lethal force, first volley, was objectively reasonable, proportional and necessary.

Therefore, the BOPC found Officer A's use of Lethal Force, first volley, to be In Policy.

- **Volley Two**

Officer A – Pistol, three rounds from an approximate distance of 30 feet, in a southerly direction.

Background – According to Officer A, his/her background during the second volley was similar as the first volley and consisted of a residential garage.

According to the surveillance video, after firing at Officer A, the Subject lowered his pistol and ducked down as he backed up into the driveway. Officer A began to drive west out of the cul-de-sac as, fearing the Subject would walk up and execute him/her while seated in his/her vehicle. The Subject moved to the east, then turned facing west and, with a two-hand grip, raised his pistol and pointed it in Officer A's direction. Officer A drove out of the cul-de-sac as he/she steered his/her vehicle with his/her left hand and held his/her service pistol in his/her right hand. As he/she drove away, the Subject continued to shoot at him/her and Officer A fired a second volley of rounds from his/her vehicle. Officer A aimed his/her service pistol at the Subject's center mass and fired another three or four rounds.

The UOFRB assessed the circumstances and evidence related to the OIS during the second volley. Based on the immediate threat the Subject posed as he fired at Officer A, the UOFRB opined it was objectively reasonable and necessary for Officer A to return fire at the Subject.

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