

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

OFFICER-INVOLVED SHOOTING – 045-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	8/20/22		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	3 years, 3 months
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Reason for Police Contact

Officers conducted an investigative stop of a vehicle parked in a handicapped parking space in front of a liquor store. During the investigative stop, officers began to direct the four occupants to exit the vehicle. When an officer contacted the right-rear passenger (the Subject), a search of his waistband revealed that he was concealing a pistol. The officer removed the pistol and ordered the Subject to his knees. A short time later, the Subject reached into the vehicle, retrieved an object, and turned toward the officers, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Male, 20 years of age.

Board of Police Commissioners' Review

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

The following incident was adjudicated by the BOPC on 7/25/23.

Incident Summary

On Friday, August 19, 2022, at 2359:49 hours, Officers A and B were patrolling in a black and white police vehicle. Both officers had received information from previous roll call briefings that this area was recently plagued with robberies, shootings, and gang rivalries. As the officers patrolled, they observed a vehicle parked in a handicapped parking space in front of a liquor store.

Officer B advised his/her partner that the four occupants in the vehicle appeared to be young teenagers out past curfew. Officer B also believed that the occupants were possibly loitering in the liquor store's parking lot to buy alcohol or engage in other gang or criminal activity. Officer B stated that the liquor store was in a known gang area. In addition, Officer B told his/her partner that the driver of the vehicle was wearing a design of baseball cap commonly associated with a local street gang.

As Officer B told Officer A about his/her observations, he/she had driven south past the liquor store. Officer B advised Officer A to turn the vehicle around to conduct an investigative stop.

As the officers approached the driveway of the liquor store, Witness A removed his cap and placed it near the center console. Witness A then removed what appeared to be keys attached to a lanyard and put them in Witness B's lap. Witness B appeared to look at her side-view mirror and then place the lanyard near/under her right thigh. As that occurred, the Subject looked back over his right shoulder through the open rear-passenger door.

Officer A drove into the liquor store's parking lot and positioned their police vehicle in a southern direction, offset approximately five feet to the rear of the parked vehicle. Officer A momentarily activated the vehicle's forward-facing emergency lights and siren, and both officers utilized their spotlights to illuminate the parked vehicle. The parked vehicle's reverse lights appeared to be on, and the rear-passenger side door was still ajar.

According to Officer B, he/she made several observations when they drove into the parking lot. Officer B observed that the Subject looked in their direction, Witness C shuffled her body down in her seat, and Witness A removed his red cap. Witness A said that whenever he sees a police officer, he takes his cap off, knowing that it is like one worn by a local gang and he is going to get contacted by the police because of it.

The officers opened their respective doors and stood behind them. Officer B broadcast to Communications Division (CD) that they were out checking the vehicle.

As Officer B was completing his/her broadcast to CD, Officer A ordered the Subject, "*Hey, stay in the car.*" Officer B also ordered the Subject, "*Close the door.*" The Subject closed his passenger door and placed a black shirt over his lap. Officer B indicated that

the Subject complied with his/her commands and appeared cooperative. Officer B also stated that the parking lot was well lit, and the vehicle windows were down.

Officer B approached the passenger side of the vehicle with his/her flashlight in his/her left hand pointed toward the vehicle and his/her right hand on the grip of his/her holstered pistol. When Officer B reached the rear-passenger-side door, the Subject tried to hand him his identification through the window. Officer B told him that his/her partner would be right with him and continued illuminating the vehicle's interior with his/her flashlight.

Officer A approached the driver side of the vehicle and held his/her illuminated flashlight in his/her left hand as he/she contacted Witness A. Officer A explained that the reason they stopped them was for parking in a handicapped parking space without a placard displayed. Additionally, Officer A asked for Witness A's driver's license, registration, and proof of insurance. Witness A advised Officer A that he did not have a driver's license and the vehicle belonged to Witness B.

Officer A asked Witness B if she had identification. Witness B replied that she did and asked if she could retrieve it from her purse. Officer A asked Witness B where her purse was located, and she pointed to the passenger floorboard with her right hand. Officer A stated, *"On the floorboard? Yeah, go for it."*

As Witness B reached down to get her identification, the Subject and Witness C raised their hands and placed them on the back of the driver and passenger headrests. Officer A again asked Witness A if he had any identification on him, and he replied, "No." Next, Officer A asked if anyone was on probation or parole, to which they responded, "No."

Officer A asked Witness A to exit the vehicle and explained that because he could not provide identification, he/she could not verify who he was. Officer A told Officer B, *"I am going to have the driver step out, and then we will stack them up."* Officer B stated, *"My partner decided to ask the driver that he was going to be temporarily detained based off of that violation being an unlicensed driver."*

Officer A directed Witness A to exit the vehicle and face away from him. Witness A complied and placed his hands behind his back as Officer A searched his waistband area. Officer A stated, *"Anyone I have -- anyone I have step out of the vehicle or that's being detained, I usually do a -- a pat-down search for weapons only."*

Officer A further explained to Witness A that he was being detained because he could not verify his identity or know if he was possibly wanted. Officer A handcuffed Witness A and told him to walk behind the vehicle toward his/her partner. Officer B directed Witness A to stand and face the front wall of the liquor store. Officer B repositioned him/herself by stepping backward, away from the rear passenger door. Officer B continued to watch the vehicle and Witness A.

Officer A moved to the driver-side rear door and advised Witness C to exit. Officer A indicated that he/she was able to visually inspect her as she exited. Officer A told Witness C that he/she would not handcuff her but to keep her hands behind her back.

Officer A instructed Witness C to walk behind the vehicle, followed by Officer B directing her to stand next to Witness A.

Note: Officers A and B indicated that they did not believe requesting an additional unit at this point in the incident was necessary. According to Officer A, they do not always request an additional unit when multiple people are in the vehicle.

Officer A moved to the passenger side rear door of the vehicle and proceeded to contact the Subject. Officer A opened the door and said, *"I am going to have you step out. Face away from me."* According to Officer A, when he/she directed the Subject to step out of the vehicle, the Subject was not making eye contact with him/her and appeared shaky and looking around.

Before the Subject exited the vehicle, he removed the black shirt from his lap, along with his cellular phone, and placed them on the seat next to him.

When the Subject exited the vehicle, Officer A moved him slightly east, away from the rear door area. Officer A indicated that he/she could not visually detect any bulges on the Subject because he was wearing baggy clothing and believed that he could conceal contraband on his person. In addition, Officer A believed that the Subject was a minor in violation of curfew, which he/she felt warranted detention for further investigation.

Officer A said that he/she placed the Subject's hands behind his back in a praying motion and used his/her left hand to grip his fingertips while simultaneously sweeping his waistband area. As Officer A conducted a pat-down search of the Subject's front waistband, he/she felt the butt of a pistol protruding on his right side. While still controlling the Subject's hands, he/she quickly glanced toward his/her partner and stated, *"Strap!"*

Officer A immediately removed the Subject's pistol with his/her right hand and pointed the muzzle downward with his/her finger along the frame while simultaneously holding the Subject's left hand with his/her left hand. As that occurred, Officer B unholstered his/her own pistol with his/her right hand and held it in a one-handed grip with the muzzle pointed in a downward position with his/her finger along the frame.

According to Witness A, he heard Officer A say that the Subject had a pistol and looked back toward Officer A.

Note: Witness A indicated that he did not know the Subject had a pistol on his person and claimed he had never seen him with one.

Officer B began to yell commands for Witnesses A and C to get on their knees on the ground and simultaneously retrieved his/her police radio. Meanwhile, Officer A told the Subject not to move. Officer B then requested a back-up unit.

Meanwhile, Officer A told the Subject not to move. The Subject told Officer A he would not run.

As Officers A and B attempted to control each of the individuals involved, Witness A and Witness C began to look back at them. Witness B also turned around and looked at the officers as she remained seated in the front passenger seat. In addition, Witness C started to cuss and ignore commands to keep her hands up.

Officer A told Officer B to retrieve the Subject's pistol. Officer B momentarily holstered his/her police radio, grasped the Subject's pistol barrel with his/her left hand, and held it downward. Officer B stepped backward and placed the pistol on the front passenger seat of his/her police vehicle. Officer B stated that nobody had immediate access to their police vehicle, and he/she was within arm's reach of the pistol.

After Officer B placed the Subject's pistol inside the police vehicle, Officer A continued to grasp the Subject's hands with his/her left hand, unholstered his/her own pistol with his/her right hand with his/her finger along the frame, and pointed the muzzle downward.

Officer B returned near to where Officer A was standing and told him to put the Subject down on the ground. Officer A ordered the Subject to his knees and directed him to cross his legs. The Subject was positioned just outside the rear passenger side door.

Officer A began to step backward, away from the Subject and told Officer B to get some cover.

Officer A initially redeployed behind the open passenger door of their police vehicle. At the same time, Officer B continued to order the Subject to cross his legs and directed Witness B to place her hands out of the window. Officer A then repositioned him/herself along the passenger side of their police vehicle. Simultaneously, Officer B redeployed behind the open passenger door of the police vehicle.

Officer B reached into the police vehicle and held the radio microphone in his/her left hand while simultaneously holding his/her pistol with his/her right hand through the open passenger door window.

Officer A made an additional broadcast and advised CD of their location at the liquor store. Multiple units responded to the back-up request, including Officers C, D, and Sergeant A.

Officers A and B remained positioned behind the passenger door and waited for responding units. Officer A communicated to Officer B to keep the suspects where they

were at. At that time, Witness B remained seated in the vehicle while the Subject, Witness A, and Witness C were positioned on their knees, facing the liquor store.

In the meantime, Officer B told the Subject to remain on his knees and “shuffle” to his right.

The Subject looked over his right shoulder toward the officers and said to them that he was in an uncomfortable position. Both officers continued ordering the Subject to move to his right, while Witnesses A and C also turned and looked toward the officers. According to Officer A, Witness C started to yell and cuss at them.

Officer B attempted to communicate with the Subject stating, *“Hey, you in the grey, what’s your name, dude?”* The Subject replied, providing a name. At that moment, Officer B instructed the Subject to slide to his right. When the command was given, the Subject remained on his knees with his feet crossed and his buttocks resting against his feet.

The Subject uncrossed his feet while still on his knees and propped his torso upward. He planted his left foot on the ground and shifted his weight to rise to his feet. The Subject quickly moved to his left, entered the rear passenger side door of Witness B’s vehicle, and reached into the passenger compartment with both of his arms and upper body.

Officer A observed the Subject crouch down inside the vehicle as if he was scrambling to reach for something.

According to Officer A, *“So he stands up, puts both of his arms inside of the vehicle, at which time I believed he was -- he was gonna get a firearm and kill me and my partner. I was scared. So once he reaches in the vehicle, I -- I -- I tell him one more time to stop. He doesn’t listen to my commands. He then turns towards my direction, at which time I seen a black object resembling a firearm.”*

Officer A, while still positioned behind the police vehicle’s passenger door offset from Officer B, raised his/her pistol in a two-handed grip, aimed it at the Subject, and shouted, *“Hey, don’t [expletive] move!”*

Officer A observed the Subject exit the vehicle and look directly at them with a black object clenched in his hand, held at his waistband area. According to Officer A, *“...it looked like a little black revolver, from what I recall.”*

Officer A fired one round in a southwesterly direction toward the Subject’s chest area from approximately 15.5 feet. Officer A said that his/her background was the cement wall of the liquor store and the passenger door of Witness B’s vehicle. After Officer A fired the round, he/she redeployed to the rear of their police vehicle.

According to Officer A, *“He then turns towards my direction, at which time I seen a black object resembling a firearm. He turns to my direction, looks at me and my partner -- like, he looks at me dead in the eyes, and he kind of had a -- like, a -- I wouldn’t say a blank stare, but he had a stare like he was gonna kill me -- at which time I fired one round in his direction. After I fired the one round, he -- he went to the sidewalk.”*

Officer A stated that after he/she fired his/her pistol, he/she conducted an assessment and did not feel it was necessary to fire a second round.

As the OIS occurred, Officer B remained positioned behind the passenger door. Officer B stated that he/she lost complete sight of the Subject’s upper torso as he lunged into the vehicle.

Note: Officer B’s BWV camera lens was momentarily obstructed by the passenger door panel when he/she crouched down, therefore, only the sound of the gunshot was captured.

Officer B indicated that after the Subject exited the vehicle, he/she heard the round fired by Officer A. Officer B then saw the Subject holding a black object at the center of his chest in a two-handed grip and running away from them.

The Subject ran away from the vehicle in a northern direction. The Subject then dropped a black object onto the ground, which was later identified as a cellular phone.

Note: The Subject’s cellular phone was inside a red case that had a black patch in the middle. A few seconds after dropping the phone, the Subject also dropped a black-colored wallet onto the ground.

According to the Subject, *“I went to the car. I grabbed my phone. I turn around. And that’s when I got shot.”*

The subject was struck and injured in the left thumb by Officer A’s gunshot. Upon the arrival of assisting officers, the Subject was taken into custody and later transported to the hospital. No other weapons were located and there were no other injuries.

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

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes

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

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers 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 suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

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

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

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

- Defend themselves;
- Defend others;
- Effect an arrest or detention;

- Prevent escape; or,
- Overcome resistance.

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

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

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

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

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

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

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

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

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

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

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case-by-case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

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

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

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

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

deadly force; and d) whether a warning was feasible and/or given.

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

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

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

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

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

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

A. Tactics

Tactical De-Escalation 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 and Assessment – According to Officer B, he/she and Officer A are regular partners and have discussed tactics, contact and cover roles, the use of force policy, vehicle pursuits, traffic stops, and pedestrian stops. Officer B indicated that during tactical situations, they quickly assess and develop a plan. The officers also indicated that they generally communicated via verbal and non-verbal cues.

Upon seeing the vehicle parked in the handicapped space in the parking lot of the liquor store, Officers A and B planned to conduct an investigative stop. Officer B assessed that the occupants of the vehicle appeared to be minors who might be involved in gang or other criminal activity. His observation of Witness A removing a baseball cap upon their approach further indicated to Officer B that the occupants may be gang affiliated. Officers A and B also assessed that the locality had been experiencing an increase in violent crime and that the liquor store was in a known gang area. According to Officer A, because gang members were known to be armed with guns, Officer B and he/she had considered removing the occupants from the vehicle when they initiated contact. Believing that the occupants of the vehicle were minors, Officer A planned to remove them from the vehicle and secure them before requesting any additional resources.

After locating the pistol in the Subject's waistband and securing it in the police vehicle, Officers A and B assessed the need to move to cover while awaiting the arrival of back-up units. Officer A assessed that there was "*so much going on*" in front of him/her and there was still another occupant in the vehicle, so he/she did not feel comfortable handcuffing the Subject at that point. Instead, Officer A planned to place the Subject on his knees, at a tactical disadvantage, and treat the incident as a felony high-risk stop, while he/she and Officer B covered the Subject and the other occupants of the vehicle from behind the ballistic door panels of their police vehicle.

Following the OIS, Officers B, C, and D formed tactical teams to clear the vehicle and safely detain the Subject and other occupants. Officers C and D designated lethal and less-lethal force roles and coordinated the movements of the teams. Officer D also assessed the need to search the liquor store for victims, and he/she formulated a plan to do so with the resources at scene.

The BOPC noted that the Use of Force Review Board (UOFRB) was critical of Officers A and B's planning and assessment leading up to and during their investigative vehicle stop. The UOFRB noted that Officer B believed that the occupants of the vehicle might be gang members and he/she communicated that belief to Officer A. Officers A and B both acknowledged that gang members were

known to carry guns and that the liquor store was in a known gang area; however, neither officer took steps consistent with the risks associated with encountering potentially armed suspects. The UOFRB opined that the officers' decision to walk up to a vehicle occupied by four people who they believed might be gang members without requesting additional resources placed them in a tactically disadvantageous position. Additionally, the UOFRB opined that deficiencies in Officers A and B's planning and assessment left them unprepared to adequately address the tactical situation once the pistol was located in the Subject's waistband. As such, the UOFRB opined that Officers A and B's planning and assessment substantially and unjustifiably deviated from Department-approved tactical training.

Time and Redeployment and/or Containment – After locating the pistol in the Subject's waistband and securing it in the police vehicle, Officers A and B ordered the Subject to his knees and redeployed to cover. The officers requested additional resources and attempted to use time to de-escalate the situation. The Subject's decision to reach into the vehicle and turn toward the officers while holding a dark object escalated the encounter and prevented the officers from continuing to use time as a de-escalation technique.

After the OIS, Officers A and B continued to use the cover of their police vehicle to their advantage and were able to wait until additional resources arrived before approaching and detaining the Subject and the other occupants of the vehicle.

Other Resources – Upon initiating the investigative stop, Officers A and B elected to approach the vehicle and contact the four occupants rather than request additional resources. According to Officer A, he/she intended to remove the occupants of the vehicle and secure them before requesting other resources. After handcuffing Witness A and directing him to stand at the wall of the business, Officer A removed Witness C from the vehicle. Officer A realized that he/she only had one additional set of handcuffs on his/her belt and believed that they would be better utilized to secure the Subject. Therefore, he/she directed Witness C to stand next to Witness A without handcuffing her.

When Officer A found the pistol in the Subject's waistband, he/she alerted Officer B, who broadcast a back-up request. The officers were awaiting the arrival of additional resources when the OIS occurred. Following the OIS, Officer B broadcast a "help" call, and both Officers A and B remained behind cover while waiting for additional officers to arrive.

The BOPC noted that the UOFRB was critical of Officers A and B's delay in requesting additional resources. The UOFRB opined that upon recognizing that there were four occupants in the vehicle and developing the opinion the occupants might be gang members, Officers A and B should have immediately requested an additional back-up unit. Additionally, the UOFRB opined that Officer A should have recognized that he/she did not have enough handcuffs to secure and search all the occupants of the vehicle, which should have further prompted him/her to request

additional resources. By not having sufficient resources at scene before contacting the occupants of the vehicle, Officers A and B limited their options and placed themselves at a tactical disadvantage. The UOFRB would have preferred that Officers A and B had requested additional resources, ordered everyone out of the vehicle, placed them against the wall, and secured/searched each occupant with sufficient officers providing cover.

Lines of Communication – Prior to initiating the stop, Officers A and B communicated their observations to each other about potential gang attire. After locating the pistol in the Subject’s waistband, Officer A glanced toward his/her partner and stated, “*Strap!*” In response, Officer B placed Witnesses A and C in a position of disadvantage by directing them to their knees. Officer A told the Subject not to move and Officer B requested a back-up unit for a group with a gun. Officers A and B continued to verbalize with the suspects and onlookers as they waited for additional resources to arrive. Upon the arrival of additional resources, Officers C and D communicated a tactical plan with officers and designated roles and responsibilities.

The BOPC noted that, on its overall assessment of the officers’ de-escalation efforts, the UOFRB opined that Officer C and D’s actions did not deviate from Department-approved tactical training. However, the UOFRB opined that Officers A and B’s lack of planning, improper assessments, and failure to use other resources substantially and unjustifiably deviated from Department-approved tactical training.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers C and D did not deviate from Department-approved tactical training. Additionally, the BOPC determined that the tactics employed by Officers A and B 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** Tactical Vehicle Deployment

As Officers A and B patrolled they observed a vehicle parked in a handicap parking space in front of a liquor store. Believing that the occupants were possibly underage and loitering in the parking lot, Officers A and B decided to conduct an investigative vehicle stop. Officer A drove into the liquor store’s parking lot and positioned their police vehicle in a southern direction, offset approximately five feet to the rear of the parked vehicle. Officer A momentarily activated the vehicle’s forward-facing emergency lights and sirens, and both officers used their spotlights to illuminate the parked vehicle.

The BOPC noted that the UOFRB assessed the approach and positioning of Officers A and B’s police vehicle during their investigative vehicle stop. The UOFRB noted that although Officers A and B had initiated an investigative vehicle stop, the

placement of their police was not consistent with Department-approved tactical training. Rather than attempt to position the front of the police vehicle a safe distance behind and in line with or slightly offset from the rear of the occupant's vehicle, the officers entered the parking lot at a more perpendicular angle and over-penetrated the driveway, placing them too close to the occupant's vehicle and without sufficient cover as the incident unfolded. The UOFRB also considered the location and terrain of the liquor store's parking lot. In their assessment, the UOFRB opined that Officers A and B had the available space to properly position their police vehicle, which would have afforded them better cover throughout the incident. The UOFRB opined that the placement of Officers A and B's police vehicle contributed to Officer A being just outside the passenger door's cover when the OIS occurred which placed them in a significant tactical disadvantage. The UOFRB would have preferred that Officer A had taken a different approach and properly positioned their police vehicle for an investigative stop.

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

- **Debriefing Point No. 2 Search Technique**

Prior to conducting a pat-down search of the Subject, Officer A directed him to place his hands behind his back in a "praying motion." Officer A then loosely held the Subject's hands as he/she conducted the search. When he/she located the pistol in the Subject's waistband, Officer A elected to remove it with his/her right hand while the Subject was still standing and unsecured. As Officer A held the Subject's pistol in his/her right hand, his/her left hand loosely held the Subject's left hand until the Subject was ordered to his knees. Officer A then redeployed back to their police vehicle without handcuffing the Subject.

The BOPC noted that during the UOFRB hearing, a subject matter expert (SME) from Training Division's Tactics Training Unit discussed the Department's training as it related to the tactics used when encountering a suspect with a firearm during an investigative stop. The SME noted that officers are trained to establish and maintain a good grip on both hands while conducting a search. If a firearm is located during the search, officers are trained to maintain control of the suspect's hands, place them on their knees with precision and speed so they are immediately in a position of disadvantage, and alert their partner of the firearm. The expectation of the cover officer is to draw their pistol and provide cover while the contact officer handcuffs the suspect as quickly as possible. After handcuffing the suspect, the contact officer removes the firearm and secures it or passes it off to the cover officer, as both officers move to cover.

The UOFRB assessed the manner in which Officers A searched the Subject and his/her actions after locating the pistol in the Subject's waistband. The UOFRB noted that when Officer A placed the Subject's hands behind his back in a "praying motion," he/she used his/her left hand to grip the Subject's left hand while

simultaneously sweeping the Subject's waistband area with his/her right hand. Upon review of Officer A's BWV, the UOFRB noted that Officer A failed to maintain proper control of the Subject's hands. Upon locating the pistol, the UOFRB noted that Officer A chose to remove it immediately from the Subject's waistband and hand it to his/her partner, leaving the Subject standing and his/her hands unsecured. The UOFRB opined that Officer A failed to properly control the Subject's hands during the search, and his/her decision to remove the pistol from the Subject's waistband before he/she was handcuffed placed him at a significant tactical disadvantage and unnecessarily risked his/her safety and the safety of his/her partner.

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

- **Additional Tactical Debrief Topics**

Drawing Service Pistol While Holding Suspect – After Officer A removed the pistol from the Subject's waistband, he/she handed it to Officer B. Officer A, while still only maintaining control of the Subject's left hand, immediately unholstered his/her own pistol with his/her right hand and held it with the muzzle pointed downward. The Subject remained unhandcuffed and Officer A's left hand remained gripping the Subject's left hand. Alternatively, Officer A could have handcuffed the Subject before drawing his/her pistol to give him/herself more options if the Subject had resisted.

Situational Awareness (Securing Firearm) – Officer B retrieved the Subject's pistol from Officer A and placed it on the passenger side of the police vehicle seat. Officer B walked away and continued to assist Officer A. Although Officer B was near the passenger side of their police vehicle, he/she did not realize that the driver-side door was open and accessible. Alternatively, Officer B could have placed the pistol in a secure area of their police vehicle.

Profanity – Officer A used profanity when giving commands to the Subject before the OIS. After the OIS, an unknown individual exited the liquor store and walked toward Witness B's vehicle. Attempting to gain his compliance, Officer B used profanity while giving commands to the individual to move away. Although the officers' use of profanity was not excessive or personal, and was intended to gain compliance, it is not a best practice.

Non-Medical Face Coverings – Officers A and B were not wearing non-medical face coverings at the scene, as directed by the Chief in May 2020.

Command and Control

- As the first unit arrived after the OIS, Officer C positioned him/herself behind the cover of Officer A's driver-side door and coordinated with officers to have Witness B

exit the passenger side of the vehicle. Officer C assembled several other officers to clear the vehicle.

Simultaneously, Officer D took command, assumed the role of team leader, and formulated a plan to take the suspects into custody. Officer D coordinated with Officer C to have the two teams move seamlessly while efficiently completing tasks to clear the vehicle, take the Subject into custody, detain the other occupants, and complete the building search of the liquor store. After the suspects were in custody, Officer C broadcast a request on Harbor Division base frequency to have the rescue ambulance (RA) enter the scene, while Officer D broadcast that the suspects were in custody.

After the Subject was in custody and the other occupants were detained, Sergeant A arrived at scene and declared himself as the incident commander (IC). Sergeant A immediately contacted Officers A and B, who advised that an OIS had occurred. As that occurred, Sergeant B arrived and began to assist Sergeant A. Sergeants A and B ensured the separation and monitoring of Officers A and B and individually obtained each public safety statement (PSS).

Lieutenant A arrived at scene, relieved Sergeant A, and declared him/herself as the IC. In addition, Lieutenant A coordinated crime-scene activities and established a command post.

The BOPC determined that Officers C and D used active leadership to direct others while using available resources to coordinate a response and accomplish tasks and that Sergeants A and B arrived at scene after the suspects were in custody and properly completed the post-CUOF protocols.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC determined that Officers A and B's actions were a substantial deviation, without justification, from Department-approved tactical training. The BOPC also determined that Officers C and D's actions were not a deviation from Department-approved tactical training.

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

B. Drawing and Exhibiting

- **Officer A**

First Occurrence - After Officer A located the pistol in the Subject's waistband, he/she passed it off to Officer B and unholstered his/her own pistol. According to

Officer A, he/she unholstered his/her pistol because he/she believed that the situation was going to escalate to the point where lethal force would be justified.

Second Occurrence – When approaching Witness B’s vehicle to clear the trunk, Officer A unholstered his/her pistol a second time.

- **Officer B**

After Officer A alerted Officer B that he/she removed a pistol from the Subject, Officer B unholstered his/her own pistol because he/she believed that the situation could escalate to the point where lethal force may be justified.

- **Officer C**

When arriving at scene, Officer C unholstered his/her pistol due to a “shots-fired” help-call broadcast. Officer C was unsure if the Subject fired at the officers or the officers fired at the Subject.

- **Officer D**

After officers took the suspects into custody, Officer D, and his/her team of officers, cleared the liquor store. During the store search, Officer D unholstered his/her pistol. Officer D stated he/she reasonably believed that the situation could escalate to the point where lethal force could be justified.

The BOPC noted that the UOFRB assessed Officers A, B, C, and D’s drawing and exhibiting of their pistols. As it pertains to Officer A first occurrence, the UOFRB noted that he/she had just removed a pistol from the Subject’s waistband, and he/she believed that there could be another firearm in the vehicle. Additionally, Witness B was still sitting in the front passenger side of the vehicle unsearched. Concerning Officer A’s second occurrence, the UOFRB noted that Officer A drew his/her pistol during the process of clearing the trunk of the Witness B’s vehicle. Although Officer A was not asked about this occurrence during his/her interview with Force Investigation Division (FID), the UOFRB opined that it was reasonable for an officer assigned to a search team to unholster his/her or her pistol, as the search could result in the discovery of an armed suspect and the incident could escalate to the point where lethal force may be justified. Using a similar rationale, the UOFRB opined that Officer D’s drawing of his/her pistol while a member of the team that searched the liquor store was reasonable and in compliance with Department policy.

Regarding Officer B, the UOFRB noted that he/she heard Officer A alert him of the discovery and removal of the Subject’s pistol, and he/she believed that there could be another firearm inside the vehicle. The UOFRB opined that it was reasonable for Officer B to believe that the situation could escalate to the point that lethal force may be justified. Similarly, the UOFRB opined that Officer C’s drawing of his/her pistol after

responding to a help call with shots fired was reasonable and in compliance with Department policy.

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

C. Lethal Use of Force

- **Officer A** – pistol, one round from approximately 15.5 feet.

Background - According to Officer A, when he/she fired his/her round, his/her background consisted of the cement wall of the liquor store and passenger door of Witness B's vehicle. Based on the FID investigation, Witness B was sitting in the right-front passenger seat when the OIS occurred.

After recovering the pistol from the Subject's waistband, Officer A ordered the Subject to his knees and directed him to cross his legs. The Subject was positioned approximately 3.8 feet away from the opened passenger-side rear door of Witness B's vehicle. Officers A and B remained behind the passenger-side police vehicle door as they waited for additional units. During that time, Officer B told the Subject to remain on his knees and slide to his right. The Subject looked over his right shoulder toward the officers and said to them that he was in an uncomfortable position. Officer B attempted to communicate with the Subject and instructed him to slide to his right. When the command was given, the Subject remained on his knees with his feet crossed and his buttocks resting against his feet. The Subject then uncrossed his feet, planted his left foot on the ground, and raised to his feet. The Subject dove to his left and entered the rear-passenger compartment of Witness B's vehicle with both arms and upper torso. Officer A saw the Subject crouch down inside the vehicle as if he was scrambling to reach for something. The Subject exited the vehicle and looked directly at Officers A and B with a black object clenched in his hand, held at his waistband area. Officer A described the object as a black revolver. Believing the Subject was armed with a revolver and going to kill him, Officer A discharged one round from his/her own pistol.

The BOPC noted that the UOFRB assessed Officer A's lethal use of force. In its assessment, the UOFRB noted that the Subject's actions of diving into the vehicle, grabbing a dark object, and turning in the direction of the officers. Understanding that Officer A had just removed a pistol from the Subject's waistband, the UOFRB opined that Officer A's belief that the Subject was reaching into the vehicle to obtain another pistol was reasonable. When the Subject emerged from the vehicle holding a dark object and turned toward the officers, the UOFRB opined it was reasonable that Officer A perceived an imminent lethal threat. As such, the UOFRB opined that Officer A's

lethal use of force was an objectively reasonable response to the perceived imminent lethal threat to his/her safety.

The UOFRB also assessed Officer A's background. The UOFRB noted that at the time of the OIS, Witness B was sitting in the front passenger seat of the vehicle, in the line of fire. There were also uninvolved citizens coming in and out of the liquor store just a few feet south of OIS location. However, the UOFRB opined that Officer A discharged his/her pistol in response to a perceived imminent lethal threat, he/she used appropriate fire control by discharging only one round, and his/her shot placement was accurate. While the background was a concern, the UOFRB opined that Officer A's actions mitigated the risk to Witness B and other bystanders, and no one other than the Subject was injured.

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