

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

OFFICER-INVOLVED SHOOTING – 046-22

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

Rampart 9/11/22

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

Officer A 12 years 4 months
Officer B 11 months

Reason for Police Contact

Officers were stopped in their vehicle at a red tri-light when they heard gunfire south of their location. The Subject shot a civilian victim and then ran north in the officers' direction. One of the officers observed the Subject in possession of a pistol. The officers immediately exited their vehicle. The Subject then ran north past the officers, who foot-pursued him, and the first officer-involved shooting (OIS) occurred. As the Subject then ran east, he dropped his pistol in the street. He then turned around, retrieved the pistol, and the second OIS occurred. The Subject was struck by gunfire and fatally injured.

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

Male, 35 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; the report and recommendations of the Chief of Police (Chief); and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on August 15, 2023.

Incident Summary

On Sunday, September 11, 2022, at approximately 0300 hours, the Victim was drinking in front of an apartment complex.

At approximately 0324 hours, the Victim was standing with a friend on the top of the steps in front of the apartment complex. The Subject approached and stood approximately five feet away from the Victim's elevated position on the steps. The Victim's friend quickly walked southbound away from him. According to the Victim, "I was outside right at my house with a friend. And I was about to go back in I just heard, 'Hey, where you from?' And when I turned, I just heard the shots, and that was it."

The Subject was a previously documented gang member of a criminal street gang. The Victim was also a self-admitted gang member.

At 0324:48 hours, the Subject produced a pistol with his right hand and shot the Victim two times. The Victim was struck by gunfire. As the Victim fell to the ground, the Subject ran north from the location.

Meanwhile, Officers A and B were travelling in their vehicle. This was the second deployment period that Officer A worked with Officer B as his/her field training officer. At 0324:50 hours, Officer A had his/her right forearm resting over the open window frame of the passenger-side window. Officer A heard the shots fired by the Subject.

According to Officer B, "I remember stopping, and then, before I made a left turn, my partner and I, we heard gunshots [...]. Before that I had -- I had seen a person dressed in a black hoodie go towards that area, then we heard the gunshots and that same person came out of the area and started running towards the intersection."

The distance of the officers' vehicle from the Assault with Deadly Weapon (ADW) shooting location was approximately 170 feet.

At 0324:53 hours, Officer B shifted his/her vehicle's transmission to park and exited. He/she then realized that he/she left the keys in the ignition. Officer B turned to his/her left and went back to the opened driver-side door. Officer B reached into the vehicle to retrieve the keys and intended to lock and secure the vehicle. However, due to his/her partner being involved in a foot pursuit, Officer B was not able to do so.

At 0324:54 hours, Officer A reached with his/her right hand, grabbed their vehicle's radio microphone, which was wrapped around the handle of the passenger's spotlight, and broadcast a request for backup. Officer A described, "As I'm in the middle of putting out the backup for the shooting in progress, I immediately notice the -- the male running northbound with his right hand -- and he was on the west crosswalk, running northbound. He has a -- like a gray firearm that he's running with. So at that point I

stop broadcasting, remove my seat belt, open the driver side door. And I do recall saying 'Hey, he's got a gun' or something 'gun' -- to that extent." According to Officer A, he/she was unable to complete his/her broadcast because of the threat posed by the Subject running in his/her direction with the pistol. The Subject ran through the crosswalk, as Officer A exited their vehicle.

Officer B recalled communicating with Officer A while he/she was still in the driver's seat, "'Get out. Get out. Get out.' So I put it in park. My partner got out, since [he/she] was passenger; [he/she] was already in front -- ahead of me." Officer A and B's BWVs were in the two-minute buffer period, resulting in their initial communication not being captured on audio.

At 0324:59 hours, immediately upon exiting the vehicle, Officer A unholstered his/her pistol and held it in a two-handed grip. At this time, the Subject ran onto the sidewalk. Officer A described, "So as I exited the vehicle, I gave the [Subject] commands. And at that point he's basically parallel to me. And he's running -- it -- it seemed like he had the -- the hoodie cinched pretty tight, because I -- the way he was running, it didn't appear that he even observed -- saw the officers. Because he didn't even look in our direction, initially." The Subject continued to run north on the west sidewalk, as Officer A ran in a westerly direction after him.

Officer A additionally stated, "So he's running northbound. And he canted -- he turned his shoulder -- can -- canted -- opened up his right shoulder towards me, kind of looked at me. And the -- the firearm, which initially was facing northbound, by him doing so, that -- the muzzle of that firearm was -- from what I can see, was making its way towards my direction. And at that point I felt that there was a -- a threat to myself."

At 0325:09 hours, as the Subject continued running north on the sidewalk, Officer A fired three rounds at the Subject in a northwest direction, from an increasing distance of approximately 20 to 35 feet. Officer A indicated that he/she was moving toward the parked vehicles along the west curb and intended to utilize them as cover. Officer A targeted the Subject's center body mass and fired while on the move.

Officer A stated, "After I fired each round, he was -- the -- the rounds that I fired, he was still gun in hand and still facing me or with the firearm turning my direction. I stop firing once I notice he was running head down back northbound on the sidewalk -- on the west sidewalk." According to Officer A, "The background -- the direction I was firing was west -- maybe slightly northwest direction where there was just the backdrop of those dropped -- dropped gates that closed -- for closed businesses."

At the time Officer A fired, he/she was not aware of anyone other than the Subject on the sidewalk. However, the investigation determined that there was an unidentified pedestrian leaning against the wall of the closed business. The distance from the pedestrian to the impacts on metal security gates was approximately seven feet.

According to Officer A, "Basically, once I -- I felt that the -- the [Subject] was turning in my direction to engage with the officers with the handgun he had, I fired my first shot. And after firing my first shot, I can see he's still up, gun's still in hand. I assessed and fired a second shot. After firing the second shot, I -- I, once again, assessed. And I can see he's no longer turning in my direction. He's continuing northbound, basically, head down, running northbound away from me. Although the threat is still there, still had the gun in his hand, he's not -- I still had the parked vehicle, initially, as -- as -- as cover, and he was running northbound. So that's why I chose not to continue to fire in the direction of the [Subject]." Officer A believed that he/she fired two rounds at this point of the OIS; however, the investigation determined that he/she fired three rounds toward the Subject. As the Subject continued running north, Officer A followed him.

After Officer B removed the keys from the police vehicle, he/she ran north in the direction to the rear of their vehicle. Once Officer B ran past the rear bumper, he/she continued in a northwesterly direction, following Officer A.

As the Subject continued to run north, Officer A ran onto the west sidewalk. According to Officer A, he/she was aware that Officer B was in his/her peripheral vision. The investigation revealed that Officer B was approximately 35 feet offset to the right and slightly behind Officer A.

Officer A explained their prior planning on tactics and foot pursuits, "...we've discussed how we do not follow, I guess, in -- in line together to create a -- a broader target. So if I'm running on the sidewalk, [he/she] knows not to run with me. Or if I'm on the street, [he/she] knows to, basically, separate. And whoever is ahead is going -- dealing with the -- the threat. And whoever is secondary or further behind should be the one broadcasting. [He/she] knows with an armed suspect -- although we usually are supposed to go straight into containment mode, but [he/she] understands, with an armed suspect, if there's an immediate threat or with -- within reasonable distance, we have to deal with the threat, which, at times, would be to -- deadly force."

Officer A followed the Subject on the sidewalk. According to Officer A, "I observed him turn -- basically, come to a complete stop and come up with a shooting stance, pointing the gun in my direction. As I observe that, I slow -- I slow down and fired what I believe is two more additional rounds towards the suspect, due to the fact he was pointing the gun at me and I believed that he shot at me -- at least one -- one round believe he shot." Officer A believed that he/she heard the Subject shoot back toward him/her.

The investigation revealed that the Subject did not discharge his pistol during the contact with the officers.

Officer A fired one round in a northerly direction toward the Subject's center body mass, from approximately 60 feet. During the OIS, Officer A was aware that his/her background appeared clear of pedestrians in the area.

Officer A moved quickly to the left, in response to what he/she believed was the Subject shooting at him/her. Officer A explained that he/she was seeking cover as he/she moved toward the wall.

Officer A believed that he/she shot two rounds toward the Subject. However, the investigation revealed that Officer A fired one round toward the Subject at this time, when he/she perceived that the Subject shot at him/her.

After reviewing available video evidence, investigators determined that the Subject did not stop on the sidewalk; however, the video was inconclusive in determining if the Subject turned toward Officer A as he/she and Officer B described, as there was no additional evidence to corroborate their observations. Additionally, the investigation revealed that there was no ballistic evidence at scene that could be attributed to the Subject discharging his pistol at Officer A.

Officer B recalled, "As I was going around the shop [police vehicle] and going northbound [...], I saw the [Subject] running. And from what I remember is him [the Subject] turning around, and I remember seeing muzzle flash. At that point I could see my partner on the left side on the -- on the sidewalk, and [he/she] returned fire." Officer B believed that the Subject had turned around and shot at his/her partner when he/she observed the muzzle flash. Officer B then heard shots fired to his/her left side and attributed them to his/her partner returning fire at the Subject.

Officer B's rationale for not shooting at that time was because, "I have a key on my hand, so I -- I didn't have a clear shot. I had -- didn't have a good grip, so I didn't attempt to engage the [Subject]. I went ahead and continued going northbound."

Officer B continued to run in a northwesterly direction, following his/her partner. As Officer B stepped onto the sidewalk, he/she and Officer A continued foot-pursuing the Subject. Officer B was approximately 20 feet offset to the right and slightly behind Officer A.

According to Officer A, he/she tried to broadcast, "So as I was running northbound, still on the sidewalk, I began to broadcast the -- I don't recall exactly what it was, but it was putting out the help call, our location." Officer B recalled, "My partner and I, we were both on the sidewalk as the suspect crossed -- started crossing the street between two cars. My partner and I crossed the street. Before that I remember my partner going on the radio and saying, 'Officer needs help. Shots fired. Officer needs help.'"

At 0325:14 hours, Officer A can be seen on body-worn video (BWV) using his/her left hand to acquire his/her handheld radio and moving it up toward his/her face. Simultaneously, Communications Division (CD) was broadcasting their initial backup request, which resulted in Officer A's help call broadcast not being transmitted.

Officer A explained about his/her consideration for apprehension mode as he/she ran after the Subject, "I felt the fact that he just shot at an individual, he just shot at officers,

by allowing him to get further away and possibly flee into an apartment complex or (Inaudible) vehicle, jumping behind, you know, walls or running through houses were far more of a threat to the community with an individual that is armed with a firearm. So, to me, I consider the fact that he shot at my -- at myself, the individual is a violent fleeing felon at that point; that it would not be feasible to just set containment for the individual that is clearly willing to shoot at officers and shoot at -- at another citizen."

When the Subject ran into the northbound number one lane of an intersecting street, Officers A and B ran side by side through a driveway and then into the street. Officer A looked to his/her right side after he/she stepped into the street and saw that Officer B was next to him/her. After noting Officer B's presence, Officer A continued to run in a northeast direction after the Subject. Officer B put his/her keys away and he/she unholstered his/her pistol. During this time, Officer B's belief was the following, "I - - at that point I was already thinking about (Inaudible) going in containment mode since he already shot at us and he's still fleeing from us."

At 0325:24 hours, Officer A slowed down his/her pace until he/she was in the middle of the street and ordered the Subject, "Hey, drop it." Officer B was heard on Officer A's BWV ordering the Subject, "Drop it." Officer B slowed down and stopped running.

According to Officer A, "At which time I see the [Subject] stumble on the -- on the east curb [...] before he gets to the sidewalk. And I can hear the -- the -- the sound of a firearm -- the metallic thing hitting the ground. And the [Subject is] stumbling past where the firearm fell. At which time I put my ROVER back in my holster, and I began tell -- giving him commands, as well as I heard my partner give him commands to stop or drop it -- I believe were the -- the commands that we gave, initially. [The Subject] did not comply. At that point, instead of continuing to flee from officers, he chose to run back -- or make his way back in our direction. So now he's facing us. And he's beginning -- he's bending over to retrieve the firearm. At that point I'm thinking he already shot at an unknown individual [...]. He already shot in my direction when I was on the sidewalk. And, to me, it's not normal behavior for an individual that's fleeing to drop a firearm and go back to retrieve it and run away. I believe he was going back to retrieve it to fire at, not only myself, but my partner, who I knew was to my right and in a close proximity. At which time, as he bent down facing us, I fired an additional -- I believe it was three to four rounds, from what I recall. And when I fired, I was, pretty much, in the middle of the street [...]. And I shot in a -- kind of east -- north direction to where the [Subject] was. And I only stopped shooting when I observed the [Subject], who managed to retrieve the firearm, was running away from us, head down, onto the sidewalk [...] As he moved with a purpose towards the firearm, ignoring our commands, he bent -- bent -- bent over at the waist to retrieve it. As soon as -- I believe I fired my first round as soon as he may have placed his hands or was about to place his hands on the firearm. And -- then -- then at which time I -- I fired."

Officer A fired two rounds from a decreasing distance of approximately 55 to 50 feet in a northeasterly direction. The target area on the Subject was his center body mass. Officer A assessed between each of his/her rounds, and he/she observed that the

Subject was still facing him/her with the pistol. He/she felt that the Subject was still an imminent lethal threat and was going to shoot at him/her and Officer B. Officer A stopped shooting when he/she observed the Subject faced away from him/her. Officer A did not see any pedestrians on the sidewalk, and the apartments behind the Subject were elevated.

Officer A believed that he/she fired three to four rounds at this point of the OIS. However, the investigation revealed that Officer A fired two rounds.

According to Officer B, "I remember the suspect going towards -- towards the east side - east side of the sidewalk [...], where I -- I hear him drop something. He dropped an article. It made contact with the ground, and I heard a crisp, metallic ping. I -- I knew it was a gun based on him already shooting at my partner before that. And I had my gun unholstered when I saw the [Subject] pass the gun, then turn around, come back to the gun and picked it up. At that point the [Subject] was facing me. I saw him pick up the gun. And as he was lifting it, he was -- he was facing my direction. And my partner was next to me. I remember just have -- having my gun and pointing it at him. Before that I remember me telling him that -- not to -- not to grab the gun or drop the gun -- somewhere in those lines. I told him maybe twice. He didn't do it. He actually continued on, grabbed the gun, lifted it up and -- and pointed it at my direction. From what I remember is that he was facing me, lifting the gun up, and that's the moment where I -- I -- I engaged the target -- or engaged the suspect. I -- I remember firing five rounds."

Officer B had his/her radio in his/her left hand and pistol in his/her right hand with a modified two-handed grip. Officer B fired six rounds from a decreasing distance of approximately 52 to 46 feet in a northeasterly direction. The target area on the Subject was his center body mass.

According to Officer B, as he/she was firing, "I remember tightening up my -- my -- my grip, getting a better sight, noticing that he's still not moving -- not moving, still facing me. That's why I continued to address that threat. Until I noticed that clench, and he's still facing me -- until that last round, and then turning around and continue on running northbound, then at that point I went back to the low ready, and we continue -- keeping our distance." When the Subject was no longer facing Officer B with the pistol, Officer B stopped firing.

Although Officer B's background was comprised of residences and apartment complexes, he/she did not see any pedestrians near the Subject's location at the time he/she fired his/her rounds. Officer B also noted that the parked vehicles around the Subject were unoccupied. Officer B believed at the time that there were no other options available to him/her and it was necessary to fire.

Officer B believed that he/she fired five rounds when the Subject pointed his pistol at him/her. However, the investigation revealed that Officer B fired six rounds.

After the Subject ran onto the east sidewalk, he collapsed approximately 70 feet from location where he had been at the time the final volley of shots was fired. The Subject fell face down with both arms under his torso.

At 0325:30 hours, Officer A broadcast, "Officer needs help, shots fired. We have a suspect down..." while he/she ran to the parked cars on the east side of the street and utilized them as cover. Simultaneously, Officer B moved onto the parkway, stopped south of a palm tree, and used it for cover. Officer B subsequently gave the Subject commands to put his hands out to his sides. Officer A advised Officer B to hold his/her position of cover, as he/she [Officer A] maintained his/her focus on the Subject.

A review of the radio frequency revealed that Officer A initially broadcast his/her correct Code-Six (on-scene) location immediately after the OIS. However, approximately 30 seconds later, he/she erroneously broadcast his/her location incorrectly. At approximately 0327:37 hours, he/she rebroadcast the correct address of the officers' location.

According to Officer A, "At that point I stayed on the street and utilized the parked vehicles as some sort of cover. And (Inaudible) notice the [Subject] kind of no longer aggressively running away from us, arms kind of dropping down. And he, shortly after, just came down to his knees, and then to his stomach onto the sidewalk. And still with the -- the gun in his hand. You could see when he landed, he landed with his hands tucked in. So I believe he still had the firearm on him, due to the fact I didn't see him discard it, I didn't hear it, and you can't see his hands. So I believed he still had the firearm. I held my position utilizing a parked vehicle as cover. I was, I think, at that point about 12, 15 feet from the [Subject]. And my partner utilized a -- a -- I thought it was a cable pole. But on the video, it ends up being a huge palm tree. And I advised [him/her] to hold there. And my partner gave him commands continuously to (Inaudible) spread your legs, spread your arms, show him your hands. At which time he's unresponsive. And [the Subject], at that point, was not moving."

At 0326:00 hours, Officer A requested a rescue ambulance (RA) to standby. Officers A and B held their positions of cover while waiting for backup units to arrive.

In response to the help call, the following personnel responded: Sergeants A, B, and Officers C, D, E, F, G, H, I, J, K, L, M, N, O, and P.

At 0328:42 hours, following the arrival of responding units, Officer A conducted a tactical reload of his/her pistol from his/her position of cover. As he/she did so, Officer B continued to cover the Subject who was face down on the sidewalk.

At 0328:55 hours, Sergeant A arrived on scene and declared himself/herself the incident commander (IC).

At 0329:10 hours, Officer A stepped back and allowed Officer K to assume the role of designated cover officer (DCO). Officer I approached Officer A and asked, "Are you good?" to which Officer A stated, "I don't know. I think he shot at me."

At 0330:50 hours, Officer C assumed the role of team leader. Officers C, D, E, F, H, K, L, and N formed an arrest team behind the van which Officer A had used as cover. The team planned their approach, while utilizing the van as cover. Officer C directed all the officers to equip themselves with personal protective equipment (PPE). Officer C directed Officer K to be the DCO and Officer F to hold the ballistic shield. As he/she positioned himself/herself in front of the team. Officer F unholstered his/her pistol. Officer L assumed the role of handcuffing.

Officers H and N were both equipped with 40mm Less-Lethal Launchers. Officers E and M joined the arrest team in the event they needed more assistance. Sergeant A monitored the approach as he/she walked with the team.

At the direction of Officer C, the arrest team approached the Subject as he laid on his stomach with his arms folded underneath his upper body. Officer F, equipped with the ballistic shield, stopped at the Subject's feet, with Officer K next to him/her as the DCO. Officer C fanned out to the right side of the Subject, as Officer L went to the left side. Officer L obtained control of the Subject's left arm and handcuffed his left wrist. At approximately 0330:50 hours, Officer C obtained control of the Subject's right arm while Officer L handcuffed the Subject's right wrist.

At 0330:57 hours, Sergeant A broadcast, "[L]et me get an RA standing by as well."

After the Subject was handcuffed, Officers C and L rolled him onto his side, in the recovery position. As they did so, the Subject's pistol was visible on the ground underneath his torso. Officer C then directed Officer L to conduct a pat-down search. Officer L cleared the Subject's waistband and found no additional weapons.

Officer C directed officers to move the Subject away from the pistol, followed by a request for an officer to monitor the pistol in its current position. Officers D and L then pulled the Subject a few feet south on the sidewalk, away from the pistol. Officer J assumed monitoring the pistol.

At 0331:40 hours, Sergeant A directed officers to provide medical aid to the Subject. In response, Officer D immediately initiated cardiopulmonary resuscitation (CPR). Officers D, K, and L alternated providing CPR to the Subject until Los Angeles Fire Department (LAFD) entered the scene at 0340 hours. At 0343 hours, Firefighter/Paramedics conducted a medical assessment of the Subject and determined him to be deceased.

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

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

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

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

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force (rounds one through four) to be Out of Policy. The BOPC found both Officer A's lethal use of force (rounds five and six) and Officer B's lethal use of force (rounds one through six) to be In Policy.

Basis for Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer’s alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover,

any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

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

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

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

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

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

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

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

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

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is

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

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

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

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

Definitions

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

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

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

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

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

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

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

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

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

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

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

A. Tactics

Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

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

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

Planning and Assessment – Officers A and B had worked together for approximately one month. On prior occasions and at the beginning of their watch, they discussed various topics, including vehicle pursuits, contact and cover roles, tactical de-escalation, and foot-pursuit tactics. Moreover, officers discussed roll-call training related to containment and apprehension mode, policies concerning foot pursuits, and command and control directives. During and after the OIS, Officers A and B assessed the need for additional resources.

Officers A and B were enroute to the police station when they heard two gunshots near their location. Knowing that gang members frequented the area, Officer A assessed and immediately requested a backup unit. While requesting a backup unit, Officer A saw the Subject running with a pistol in his right hand.

After the OIS, Officer C arrived and assumed responsibility for the tactical planning. He/she formed a tactical team that included a designated cover officer (DCO), less-lethal force officer, ballistic shield operator, and arrest team; as Sergeant A monitored. Based on Officer C and Sergeant A's assessment of the situation, they created a plan to approach the Subject and take him into custody without further incident. Sergeant A and the officers assessed the Subject's injuries and rendered medical aid until relieved by LAFD personnel.

Time and Redeployment/Containment – Officers A and B heard the shots fired near their location and saw the Subject running with a pistol in his hand. Believing that the Subject was just involved in a shooting, Officers A and B exited their police

vehicle and foot-pursued the Subject. At the time of the first OIS, the officers stated that there were parked vehicles along the street; however, because they followed the Subject on the sidewalk, they did not use available cover.

Before the second OIS, Officers A and B followed the Subject across the street, where cover was not available. When the Subject picked up his pistol after dropping it, he was facing the officers with the muzzle of it pointed in their direction. Officers A and B had to make a split-second decision to defend themselves, with little opportunity to redeploy. Following the second OIS, Officers A and B briefly moved toward the Subject before redeploying to cover and waiting for the arrival of backup units.

Other Resources and Lines of Communication – After Officers A and B heard shots fired, Officer A requested a backup unit. After Officer A saw the Subject armed with a pistol, he/she told Officer B, “Hey, he’s got a gun!” The officers then exited their police vehicle and foot-pursued the Subject. As they did so, the officers repeatedly ordered the Subject to “drop the gun.” Despite the officers’ orders, the Subject maintained possession of his pistol. The perceptions of the Subject’s subsequent actions limited Officer A’s ability to de-escalate the situation before the first OIS.

After the first OIS, Officers A and B continued foot-pursuing the Subject. Both Officers heard the sound of what they believed was a pistol hitting the ground and they continued to give the Subject verbal commands to “stop!” and “drop it!” The Subject did not comply and, instead, rearmed himself, resulting in a second OIS. Officer B advised CD that shots had been fired and broadcasted a help call. Officer A broadcasted to CD that the Subject was down and requested an RA. When additional units arrived, they established containment and communicated a plan to take the Subject into custody.

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

Debriefing Point No. 1 – Apprehension vs. Containment/Pursuing Possibly Armed Suspect

After hearing the gunshots, Officer A observed the Subject running in his/her direction, armed with a pistol. As the Subject fled northbound past the officers on the west sidewalk, Officers A and B foot-pursued the Subject in “apprehension mode.” Officers A and B continued to foot-pursue the Subject on the west sidewalk without the benefit of using cover. According to Officer A, he/she initiated a foot pursuit of the Subject because he/she believed that the Subject posed an imminent threat of serious bodily injury or death as he was running while holding a pistol. Officer B stated that he/she and his/her partner were attempting to maintain their distance from the Subject, and he/she was already thinking about going into “containment mode” before the second OIS occurred.

The BOPC noted that the Use of Force Review Board (UOFRB) assessed Officers A and B's tactics during the foot pursuit. The UOFRB noted that the Department's tactical training states that officers generally should not pursue an armed suspect in apprehension mode. Based on their statements and the distance between the Subject and the officers, the UOFRB opined that Officers A and B's actions were consistent with them pursuing an armed suspect in apprehension mode. While the UOFRB noted that Officers A and B's justification for pursuing the Subject in apprehension mode was due to their concern for the safety of the community members in the area, they opined that their decision placed them at a significant tactical disadvantage and unnecessarily risked their safety. Alternatively, the UOFRB would have expected that Officers A and B had maintained distance and utilized available cover while pursuing the Subject and made efforts to establish containment.

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 – Cover and Concealment

When Officers A and B observed the Subject running in their direction, they exited their police vehicle, unholstered their pistols, and stepped away from their vehicle's ballistic door panels. Officers A and B did not use the available cover as they foot-pursued the Subject northbound on the west sidewalk. Officer A indicated that he/she could have used the parked vehicles on the street as cover; however, he/she continued to pursue the Subject on the sidewalk.

Additionally, Officers A and B continued to pursue the Subject across a street where no cover was readily available for them to use. It was not until after the second OIS occurred that Officers A and B redeployed behind cover as they waited for responding units. Officer A utilized a parked vehicle, while Officer B used a palm tree.

The BOPC noted that the UOFRB assessed Officers A and B's decision to leave cover and initiate a foot pursuit of an armed suspect. The UOFRB noted that while both officers heard what they believed were gunshots in the area and observed the Subject armed with a pistol, they chose to leave the cover of their police vehicle to foot-pursue him. The UOFRB also noted that the Subject was not complying with the officers' commands and, at one point, was perceived to have fired his pistol at Officer A. Despite this, Officers A and B continued to foot-pursue the Subject without using the cover available to them. This decision left them exposed when the Subject picked up the pistol he had dropped and pointed its muzzle in the officers' direction. The UOFRB opined that by not using available cover, Officers A and B unnecessarily risked their safety and placed themselves at a significant tactical disadvantage, which limited their available options.

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.

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

Additional Tactical Debrief Topics

Two-Handed Shooting Platform – At the time of the OIS, Officer B was holding his/her radio in his/her left hand, resulting in a modified two-handed grip on his/her pistol when he/she discharged it. Alternatively, Officer B could have used one of the Department's approved flashlight techniques, which would have allowed him/her to obtain a better shooting platform.

Situational Awareness (Background) – During the first OIS, Officer A discharged his/her pistol at the Subject while a pedestrian stood on the sidewalk just south of the Subject. Officers should be cognizant of their background, as it may be dynamic and changing during an incident.

B. Drawing/Exhibiting

Officer A

Officer A stated that he/she heard two gunshots fired just south of his/her location while stopped in their vehicle at a red traffic light. Officer A then saw the Subject holding a pistol in his hand while running in his/her direction. According to Officer A, he/she unholstered his/her pistol because he/she believed that the tactical situation would escalate to a point where lethal force would be justified.

Officer B

First Occurrence

According to Officer B, after hearing gunshots and seeing the Subject running with a pistol, he/she exited the driver-side door of their vehicle, quickly turned around, and ran back to secure the vehicle and keys. Officer B then unholstered his/her pistol because he/she believed that the situation could escalate to the point where lethal force may be used. However, he/she still had his/her vehicle key in his/her hand, which prevented him/her from having a good grip on his/her pistol. Officer B re-holstered his/her pistol and placed his/her vehicle key in his/her pocket.

Second Occurrence

According to Officer B, as he/she ran toward his/her partner on the sidewalk, he/she observed a muzzle flash from the Subject's pistol. Officer B said that he/she believed that the Subject was firing back at his/her partner. Officer B unholstered

his/her pistol as he/she believed that the situation could escalate to the point where lethal force may be used.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their pistols. The UOFRB noted that both officers heard gunshots in the area and observed the Subject running with a pistol in their direction. Additionally, both officers gave verbal commands for the Subject to stop; however, the Subject refused to comply. Given these circumstances, the UOFRB concluded that it was reasonable for the officers to believe that the situation may escalate to the point that lethal force may be justified.

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

C. Lethal Use of Force

Officer A – pistol, discharged a total of six rounds at two OIS locations: four rounds at the first location and two rounds at the second location.

First OIS – Four rounds from increasing distance of approximately 20-35 feet in a northwest direction.

According to Officer A, he/she stated that before hearing what he/she immediately recognized as gunshots, he/she had observed a person dressed in a black hoodie walking towards that area. Following the gunshots, Officer A observed the same person (the Subject) run from the area where he/she heard the gunshots come from.

According to the investigation, Officer A was in the process of requesting a backup unit for a shots-fired investigation via his/her vehicle's in-car radio when he/she observed the Subject "casually jogging northbound with a dark hoodie on." As Officer A requested a backup unit, he/she saw the Subject with a pistol in his right hand. Officer A removed his/her seatbelt, exited the passenger side of his/her police vehicle and began to foot-pursue the Subject northbound on the west sidewalk.

Officer A stated that the Subject initially attempted to "place the firearm either in the hoodie or in his front waistband." However, as Officer A foot-pursued the Subject, he/she saw the Subject began to turn in his/her direction and "believed he was turning to fire in our direction." Fearing for his/her safety, as well as the safety of his/her partner, Officer A fired three rounds from his/her pistol from an increasing distance of approximately 20 to 35 feet. Officer A stated that he/she aimed at the center mass of the Subject, assessed between rounds, and stopped when the Subject was no longer turning in his/her direction.

Officer A further stated that he/she continued to pursue the Subject on the sidewalk. Officer A stated that he/she observed the Subject “turn...come to a complete stop and come up with a shooting stance,” pointing the pistol in his/her direction. Officer A believed that the Subject fired one shot at him/her and he/she fired one round at the Subject from approximately 60 feet.

The investigation revealed that the Subject did not discharge his pistol during the contact with the officers. Additionally, the video evidence determined that the Subject did not stop on the sidewalk, and it was inconclusive as to whether the Subject turned toward Officer A when Officer A fired his/her fourth round.

Second OIS Location – Two rounds from a decreasing distance of approximately 55 to 50 feet in a northeast direction.

After the first OIS, the Subject ran east. When the Subject reached the east curb, Officer A observed him stumble and he/she heard what he/she believed to be a pistol hitting the ground. Officer A and his/her partner told the Subject to “stop” and “drop it,” but the Subject did not comply. Officer A stated that the Subject turned and faced the officers, ran back toward his pistol, bent over, and retrieved his pistol.

Officer A believed that the Subject was retrieving the pistol to shoot his/her partner and him/her. In response, Officer A fired two rounds at the Subject’s center body mass from a decreasing distance of approximately 55 to 50 feet in a northeasterly direction.

Officer B – pistol, fired a total of six rounds in a northeasterly direction from a decreasing distance of approximately 52 to 46 feet.

According to the investigation, the Subject ran east into the street and across traffic lanes. As the Subject ran toward the east sidewalk, Officer B heard what he/she believed to be the sound of a pistol hitting the ground. He/she then observed the Subject stop and turn to pick up the pistol. Officer B and his/her partner told the Subject not to grab the pistol, but the Subject did not comply. Officer B stated that the Subject faced him/her, picked up the pistol, and pointed it in his/her direction. In response, Officer B fired six rounds at the Subject.

The BOPC noted that the UOFRB assessed the objective reasonableness, proportionality, and necessity of Officers A and B’s lethal use of force. The UOFRB noted that the Subject ran northbound, toward the officers, as he held a pistol. The UOFRB also noted that he refused to comply with the officers’ commands to drop the pistol as he ran. In its evaluation of the lethal use of force, the UOFRB differentiated between the two distinct volleys of gunfire, as the OIS occurred in two distinct locations.

With respect to the first volley (Officer A’s rounds one through four), the UOFRB’s recommended findings were not unanimous. The Majority considered that Officer A had just heard gunshots and observed the Subject running from the scene with a pistol in his

hand. As Officer A foot-pursued the Subject, he/she ordered him to “drop the gun,” but the Subject did not comply. Officer A articulated that he/she saw the Subject turn his right shoulder toward him/her, kind of look in his/her direction, and begin to move the muzzle of the pistol toward his/her direction. Believing the Subject was a threat to his/her safety, Officer A fired three rounds at him. The Subject continued to run north on the sidewalk. According to Officer A, the Subject stopped, turned, and assumed a shooting stance, at which time Officer A believed that the Subject fired one round at him/her, so Officer A fired his/her fourth round at the Subject.

The Majority opined that it was reasonable for Officer A to believe that the Subject posed an imminent lethal threat to him/her and his/her partner when he/she perceived him to be turning toward him/her with a pistol in his hand. The Majority considered that the Subject had just apparently fired his pistol and, despite being in the presence of officers, refused to discard the pistol when commanded to do so. Although Officer A did not articulate that the Subject was pointing the pistol at him/her when he/she fired his/her first three rounds, the Majority opined that the movements that Officer A perceived could have been indicative of a person intending to turn and shoot at him/her. Regarding Officer A’s fourth round, the Majority opined that although it was determined the Subject did not fire his pistol, there was no conclusive evidence to refute Officer A’s statement that the Subject turned toward him/her and pointed his pistol at him/her. Therefore, the Majority believed that it was objectively reasonable for Officer A to perceive an imminent lethal threat. Based on the totality of the circumstances, the Majority opined that Officer A’s lethal use of force (rounds one through four) was objectively reasonable, proportional, and necessary.

The UOFRB Minority disagreed with Majority’s opinion. The Minority opined that the facts and evidence presented to the UOFRB did not support the existence of an imminent lethal threat. In its assessment of the video evidence, the Minority opined that the Subject was in a full sprint as he ran past Officer A, and his attention did not appear focused on the officers. In the Minority’s assessment, the Subject never slowed his running pace and never made any furtive movements to demonstrate that he was changing his focus toward the officers and attempting to shoot them. The Minority noted that at one point, the Subject appeared to look back quickly. However, he never came to a complete stop, as indicated by Officer A, and the evidence does not support that the Subject assumed a shooting stance or pointed his pistol at Officer A while on the west sidewalk. The Minority opined that Officer A’s stated observations were not consistent with the available evidence and, therefore, his/her perception that the Subject posed an imminent lethal threat to him/her and his/her partner when firing his/her first four rounds was not objectively reasonable. Based on the totality of the circumstances, the Minority opined that Officer A’s lethal use of force (rounds one through four) was not objectively reasonable, proportional, or necessary.

With regard to the second volley, the UOFRB assessed the lethal use of force by Officers A (rounds five and six) and B (rounds one through six). The UOFRB noted that both officers indicated that they heard what sounded like a metallic object hitting the ground and they believed that the Subject had dropped his pistol. Despite giving the

Subject commands not to pick the pistol up and to “drop the gun,” the Subject turned around, faced the officers, and picked up the pistol. Officer A indicated that when the Subject bent down to pick up the pistol, he/she believed that the Subject was going to shoot at him/her and his/her partner, so he/she discharged two rounds at him. Officer B stated that the Subject picked up the pistol while facing him/her and pointed its muzzle directly at him/her. In response, Officer B discharged six rounds. Although Officer A did not specifically state that the Subject pointed the pistol at him/her, the UOFRB opined that he/she and Officer B were only a few feet from each other, and they both articulated similar actions by the Subject. Therefore, the UOFRB opined that it was objectively reasonable, based on the totality of the circumstances, that both Officers A and B perceived the Subject to pose an imminent threat of death or serious bodily injury to them. As such, the UOFRB opined that Officers A and B’s lethal use of force during volley two (rounds five and six and rounds one through six, respectively) was objectively reasonable, proportional, and necessary.

During its review of this incident, the BOPC considered both Officer A’s statement as well as the available video footage. The BOPC also considered the term “imminent” as defined by both Department policy and Section 835a(e)(2) of the California Penal Code. While the BOPC understands that the Subject was armed with a pistol as he ran from the scene of a shooting, based on the available evidence, the BOPC did not believe that a reasonable officer in the same situation would have believed that the Subject had the apparent intent to immediately cause death or serious bodily injury to Officer A or his/her partner when Officer A fired his/her first three rounds. Rather, it appeared that the Subject was attempting to evade the officers. Additionally, Officer A’s decision to leave the cover of his/her police vehicle and run directly toward the Subject compressed the amount of time he/she had to assess the Subject’s actions and limited his/her ability to use other de-escalation techniques. By closing the distance on an armed suspect, Officer A unnecessarily placed himself/herself in a position where he/she believed that it was necessary to fire his/her first three rounds.

Officer A continued to foot-pursue the Subject on the sidewalk without the benefit of cover after he/she fired his/her first three rounds. The preponderance of the evidence does not support Officer A’s account that the Subject stopped, turned toward him/her, and pointed a pistol at him/her just prior to him/her firing his/her fourth round. Instead, it appears that the Subject was continuing to flee. Thus, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would not reasonably believe that the lethal use of force was proportional, objectively reasonable, or necessary when he/she fired his/her first four rounds.

Based on the totality of the circumstances, the BOPC determined that Officer A’s lethal use of force (rounds one through four) was not objectively reasonable, proportional, or necessary. Additionally, the BOPC determined that both Officer A’s lethal use of force (rounds five and six) and Officer B’s lethal use of force (rounds one through six) was objectively reasonable, proportional, and necessary.

Therefore, the BOPC found Officer A's lethal use of force (rounds one through four) to be Out of Policy; and found both Officer A's lethal use of force (rounds five and six) and Officer B's lethal use of force (rounds one through six) to be In Policy.