

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

OFFICER-INVOLVED SHOOTING – 053-22

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

Harbor 10/11/22

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

Officer A 5 years
Officer B 2 years, 4 months
Officer C 3 years, 7 months
Officer D 3 years, 5 months

Reason for Police Contact

Officers foot-pursued a vehicle-theft suspect (the Subject). At the termination of the foot pursuit, the Subject pointed a semiautomatic pistol at the officers, resulting in an officer-involved shooting (OIS). The officers redeployed to cover and requested for help. The Subject sought cover and fired several rounds at the officers. The Subject pointed a pistol at responding officers and a second OIS occurred. Officers formed an arrest team and took the Subject into custody. Los Angeles Fire Department (LAFD) personnel responded and determined the Subject to be deceased.

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

Subject: Male, 41 years of age.

Board of Police Commissioners' Review

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

The following incident was adjudicated by the BOPC on September 19, 2023.

Incident Summary

On October 11, 2022, at approximately 0330 hours, Officers A and B were working together as partners for the first time. According to the officers, at the start of watch, they discussed tactics, which included contact/ cover, each officer's weapon system, and containment. Officer A told Officer B that he/she proactively seeks out stolen vehicles and wanted persons. According to Officer A, he/she and Officer B spoke about foot-pursuit apprehension versus containment mode. Officer A advised Officer B that he/she had recovered multiple reported stolen vehicles in the vicinity of where this incident occurred.

Just prior to 0331 hours, as the officers were patrolling, they observed a dark blue pickup truck stopped in the middle of the street, approximately 100 yards south of them. Officer A drove south in an attempt to obtain the vehicle license plate number to check the Department of Motor Vehicle (DMV) status. Officer A knew that this type of truck was the most commonly stolen vehicle in Harbor Division. Officer A passed the vehicle and then reversed. Officer A told his/her partner that the vehicle wasn't there earlier and wanted to check it out. Officer A then proceeded south and attempted to obtain the license plate number in order to conduct a DMV want/warrant check. Officer A estimated that they were 75 feet from the truck when the brake lights illuminated, and the truck accelerated south, creating a cloud of dust and debris.

At 0331:44 hours, Officer A's BWV two-minute buffer began as he/she was driving south, as dust can be observed in the air. Officer A stated that he/she did not believe that the Subject in the vehicle had observed them because of the dirt and dust that was being kicked up but did not think that the driver was trying to evade them. Officer B also did not believe that the driver had observed them and advised his/her partner to slow down due to the low visibility.

According to Officer A, they were never in pursuit of the vehicle and he/she did not know if the truck was stolen. As such, the officers did not activate their lights or siren.

At 0331:56 hours, the officers arrived at an intersection and observed the same dark blue pickup truck stopped, facing in a southwest direction. The pickup truck had collided with a tree in the center median of the street. Officer A drove past the truck and made a U-turn. Officer A utilized the spotlight of his/her police vehicle to illuminate the pickup truck and it appeared to be empty and the driver was not immediately observed in the area. According to Officer B, from their vantagepoint, they could see that the driver door of the pickup truck was open and the truck was empty.

At 0332:06 hours, Officer A drove west, as he/she rolled down his/her window and again illuminated the pickup truck with his/her flashlight. Officer A continued driving west, searching for the driver of the truck, until making a U-turn, driving east back toward the pickup truck. Officer A stated that he/she observed that the truck had collided into a tree and the door was opened and no one was inside. Officer A again used his/her flashlight to illuminate the truck as he/she drove past it before conducting a

final U-turn. At 0333:09 hours, Officer A came to a stop behind the truck. According to Officer B, he/she and Officer A discussed that they had a traffic collision and a possible a stolen truck.

At 0333:13 hours, Officer B utilized their mobile data computer (MDC) to query the truck's license plate in the DMV database. The DMV check revealed the truck had been reported stolen to another police agency on October 8, 2022.

Officers A and B exited their respective doors and unholstered their pistols. Officer A held his/her pistol in his/her right hand pointed in the direction of the truck. At the same time, he/she utilized the flashlight that was attached to his/her pistol to illuminate the truck as they verified that the truck was unoccupied. Officer A explained that he/she unholstered his/her pistol because car thieves are sometimes armed and the situation could escalate to lethal use of force. Officer B explained that he/she unholstered his/her pistol because he/she knew that the truck was reported stolen and the Subject might be armed, and the situation could escalate to where lethal force might become necessary.

At 0333:21 hours, Officer A broadcast a request for an additional unit for a stolen vehicle and provided his/her location. Officer A advised that the driver had fled on foot and that vehicle was involved in a collision. According to Officer A, he/she wanted the additional unit to search the area for a possible injured driver of the pickup truck.

The subsequent investigation determined that Officer A had broadcasted an incorrect location. As a result, Communication Division (CD) broadcast the incorrect location, which eventually caused confusion among responding backup units as the events unfolded.

Officers C and D advised CD to show them responding to the additional unit request. This was Officers C and D's fourth shift working together as partners. According to Officer C, he/she and Officer D had worked the same watch for approximately one year and during that time tactics were often discussed at the start of watch.

At 0333:44 hours, Officer A activated his/her BWV as he/she approached the driver side of the pickup truck to confirm that there were no occupants inside. Simultaneously, Officer B approached the passenger side of the truck, slightly behind Officer A. Officer A informed Officer B that the truck was clear, and both officers holstered their pistols. Officer B's BWV did not show him/her with his/her pistol unholstered; however, at 0334:07 hours, Officer B was observed on Officer A's BWV, holding his/her pistol in his/her right hand, down to his/her right side, after clearing the truck. Officer B holstered as he/she walked back to their police vehicle.

At 0334:03 hours, Officer A broadcast a request for a supervisor to respond. Sergeant A advised CD that he/she would respond to the supervisor request.

At 0334:37 hours, Officer A broadcast a request for DMV status wants and warrants on the truck. Officer A stated that he/she believed that broadcast that he/she was on

scene (Code Six) behind the vehicle, and then requested DMV wants and warrants on the plate to have the RTO (Radio Telephone Operator) confirm if the vehicle was stolen or not. Officer B advised Officer A, "Just be careful in case he's still around, partner."

At 0335:32 hours, in response to Officer A's request for a want and warrant check, CD broadcast information that the truck was stolen. Simultaneously, as CD confirmed that the truck was stolen, Officer B utilized his/her handheld flashlight to briefly illuminate the tree line on the north side of the street as he/she walked back to their police vehicle. Officer B stated that it happened so fast and that it was not normal for a Subject to become involved in a collision and then disappear. Officer B believed that it was not possible for the Subject to have fled so quickly and he/she believed the Subject was still in the area.

At 0336:00 hours, Officer A broadcast a request for an air (helicopter) unit to respond to their location for the Subject who fled. At 0336:35 hours, Officer B again unholstered his/her pistol and utilized the attached flashlight to scan the area for the Subject. Officer B stated that he/she flashed his/her light toward a palm tree where there was a bunch of trash. Officer A stated there was little to no lighting. Officer B stated that where the tree was located, he/she saw something black moving. At that point, Officer B stated that he/she unholstered his/her pistol. Officer B utilized the flashlight on his/her pistol and observed that "something" just kept moving in that area that drew his/her attention. As Officer B moved closer, he/she could see the Subject and "called it out."

Officer B held his/her pistol in a high-ready position, with a one-handed grip, finger on the frame, pointed west in the direction of the palm tree line on the north side of the street. Using the tac-light attached to his/her pistol, Officer B observed the Subject hiding between a palm tree and an approximately 8-foot-tall aluminum fence. Officer B was heard on BWV alerting Officer A, "Hey partner. I got eyes on the suspect." Officer B transitioned to a two-handed grip as he/she began giving the Subject commands, "Hey, hey, don't [expletive] move."

The Subject ignored Officer B's commands and ran west on the north sidewalk. Officers A and B foot-pursued the Subject. Officer B told investigators that he/she was attempting to apprehend the Subject. Officer B followed the Subject on the north side of the street while Officer A utilized the center of the street to foot-pursue the Subject.

Officer B held his/her pistol in his/her right hand as he/she foot-pursued the Subject. Officer B stated that he/she remembered seeing his/her partner out of the corner of his/her eye as he/she was running. Officer B stated that his/her pistol was out, so he/she did not re-holster. Officer B knew that the Subject had committed a felony crime and usually Subjects are armed so he/she continued to run after the Subject with his/her pistol out. Officer B stated that his/her finger was always off the trigger and as he/she was running, he/she never lost sight of his/her partner.

Officer A heard Officer B giving the Subject commands. Officer A stated that he/she looked over and saw his/her partner. Officer A stated that he/she observed a male in

dark clothing run westbound. Due to his/her partner being closer, he/she decided to take the role of communications and immediately broadcasted a foot pursuit for a grand theft auto (GTA) suspect. Officer A believed that since this truck had just been abandoned, he/she believed that the Subject was trying to conceal the fact that he was driving that truck. Officer A stated that when the Subject immediately popped up and ignored his/her partner's commands and started running, he/she believed that the Subject was the one who had stolen the truck.

According to Officer A, he/she had not observed the Subject in possession of a weapon and as a result he/she decided to apprehend the Subject versus set up containment. Officer A stated that as he/she was running, he/she was able to see his/her partner the entire time. Officer A observed his/her partner to be within a few feet of the Subject, so able to "go hands on." and Officer A believed that the arrest was going to be immediate.

At 0336:51 hours, Officer A broadcast that he/she was in a foot pursuit, provided a description of the Subject, and requested a backup. As both officers ran after the Subject and gave commands, Officer B told the Subject, "Hey, get down man. Hey, show me your hands." The Subject ran north and Officer A gave the Subject commands, "Let me see your hands," and broadcast their updated location of northbound. Officer A then told the Subject, "You're gonna get shot, bro. I'm going to shoot you. Drop it. Drop it. Hit the floor."

The Subject turned his upper body to the left and looked in Officer A's direction. Officer A unholstered his/her pistol with his/her finger along the frame and utilized a single-handed grip as he/she pointed his/her pistol in the Subject's direction. Officer A utilized the tac-light attached to his/her pistol to illuminate the Subject.

When Officer A was asked by investigators why he/she told the Subject that he/she was going to shoot him, Officer A explained that he/she did it as an attempt to tactically de-escalate the situation. Officer A stated it was a ruse to scare the Subject and hopefully he would give up and comply with their commands. Officer A stated he/she never had his/her pistol out.

During his/her first interview with Force Investigation Division (FID) detectives, Officer A stated that he/she did not unholster during the foot pursuit. A review of Officer A's BWV revealed he/she pointed his/her pistol, with a one-handed grip, in the direction of the Subject from 0337:12 to 0337:15 hours. During a subsequent FID interview, Officer A explained that he/she had no independent recollection of drawing his/her pistol during the foot pursuit but reasoned that the Subject was wanted for auto theft, and auto theft Subjects are known to carry weapons. Officer A stated that with the Subject fleeing and it being dark, he/she believed that it was reasonable to believe that the situation may escalate to the point where lethal force may be justified, so that would be the reason for drawing his/her pistol.

The Subject ignored the officers' commands and continued running north. Officer B continued to give the Subject commands, "Show me your hands. Get down." Officer A holstered his/her pistol as the Subject ran onto the east sidewalk.

The investigation determined that there were numerous automobiles, semi-trucks, and trailers with shipping containers parked along both sides of the street. The Subject and the officers ran north in a triangle formation, with the Subject running next to the east curb, Officer B approximately 35 feet behind the Subject, and Officer A running in the northbound lane approximately 25 feet to the left and rear of the Subject. Officers A and B ran approximately 30 feet apart. The parked vehicles and semi-trailers along the east curb provided a barrier between the officers. According to Officer B, he/she never lost sight of Officer A and he/she could hear Officer A's equipment bouncing up and down as they foot-pursued the Subject. According to Officer A, he/she could hear Officer B running, and each time they ran past a parked vehicle, he/she still could see his/her partner.

As Officer B pursued the Subject past a blue semi-truck trailer parked, he/she commanded the Subject, "Hey, get down. Get down. I'm gonna shoot you." Officer B did not fire his/her pistol. Officer B told FID investigators that he/she would never shoot a Subject just for running. Officer B stated that he/she was simply trying to get the Subject to stop and comply with his/her attempts to take him into custody. Officer B stated at that point, he/she did not see that the Subject had any weapon.

As observed on BWV, both officers began closing the distance between them and the Subject as the Subject appeared to slow down. According to Officer B, the Subject looked back in his/her direction while reaching into his chest area multiple times. Although Officer B had not observed a weapon, based upon the Subject's movements, Officer B began to believe that the Subject was possibly reaching for one. Officer B stated that he/she could tell that the Subject was struggling on retrieving whatever he was trying to retrieve. Officer B stated that he/she believed that the Subject probably had a pistol and was possibly trying to reach for it. Officer B estimated that the distance between he/she and the Subject was approximately 10 to 15 feet as this occurred.

According to Officer B, he/she felt that as he/she closed the distance between himself/herself and the Subject to approximately five feet, he/she could have tackled the Subject to the ground, but his/her instincts told him/her not to. The Subject was uncooperative and continued running north.

Simultaneously, at 0337:19 hours, Officer A transferred his/her radio from his/her left hand into his/her right hand. At 0337:20 hours, Officer A broadcast that he/she was still in foot pursuit. Officer A retrieved his/her Taser with his/her left hand while continuing to foot-pursue the Subject. At 0337:25 hours, the RTO asked for the officers' location. Officer A could only be heard broadcasting the street name, prior to, at 0337:29 hours, using his/her left hand to point the Taser in the Subject's direction before lowering it as he/she moved toward the Subject.

Officer A ran ahead of the Subject and moved into his/her path in a driveway. The investigation determined that the officers chased the Subject approximately 300 feet west on one street and then north another street for approximately 339 feet before the termination.

At 0337:31 hours, Officer A pointed his/her Taser at the Subject and activated the Taser light and red and green laser aiming beams which illuminated the Subject. Simultaneously, Officer B continued to run north approximately 11 feet behind the Subject. On Officer A's BWV, the Subject can be observed holding a tan semiautomatic pistol in his right hand, close to his rib cage, pointed in the direction of Officer A. The Subject told Officer A to "get back" and then immediately turned toward Officer B and told Officer B to "get back" also.

According to Officer A, he/she intended to gain compliance by using the sound of a Taser "spark check." Officer A stated that he/she was trying to give the Subject the commands with the Taser, again, as a de-escalation technique in hopes that the Subject would comply, but he did not. At this point, Officer A observed a brown semiauto pistol with a black barrel pointed at him/her and believed he/she told the Subject something to the effect of "get back." Officer A stated that in fear for his/her life, he/she backed up. Officer A believed he/she holstered his/her Taser, transitioned his/her radio to his/her left hand, and produced his/her pistol.

At 0337:32 hours, BWV showed Officer A lowering his/her Taser, transitioning his/her radio into his/her left hand, and backing away from the Subject into the street. According to Officer A, once the Subject told him/her, "Get back," he/she could not do anything but try to save himself/herself and his/her partner's life. After pointing his pistol in the direction of Officer A, BWV showed that the Subject continued to turn, and quickly faced Officer B while pointing his pistol with a bent right arm, held at shoulder height directly at Officer B. Officer B verbalized, "oh," raised his/her pistol with two hands to a low-ready position, and pointed it in the Subject's direction, as he/she (Officer B) immediately backed up and utilized a parked sedan for cover.

At 0337:34 hours, in defense of Officer B's life, Officer A fired three rounds in rapid succession. The Subject could be heard groaning, which lead both officers to believe that the Subject had been struck by gunfire. Regarding the three rounds fired, Officer A stated at that point, he/she could see the Subject with a pistol in his hand, acquiring his sight, and pointing it at his/her partner. That is when Officer A fired his/her first round. The Subject still has the pistol pointed at his/her partner, still trying to acquire his sight, and Officer A fired the second round. Officer A could hear the Subject groan and believed he was hit, but he still had the pistol. It looked like the Subject was trying to acquire the sight in between his/her partner or himself/herself. Officer A believed that the Subject was trying get a good sight on either one of them to fire the pistol, so that is when Officer A fired his/her third round, and the Subject went down and fell onto his back. According to Officer A, he/she was aiming at his center mass each time he/she fired his/her pistol and estimated that he/she was 7 to 10 feet away from the Subject.

Officer A's BWV showed that he/she fired seven rounds total during the OIS from his/her pistol, from distances of approximately 15 to 72 feet. The investigation determined that Officer A utilized a single right-handed shooting grip while moving rearward to fire his/her first three rounds from a distance of approximately 15 feet.

After firing his/her first three rounds, Officer A attempted to redeploy toward the west side of the street but fell to the roadway, causing his/her Taser to fall to the pavement. The Subject concealed himself between the right-rear tire of a parked semi-trailer at the east curb and a black sedan parked on the east sidewalk, east of the semi-trailer.

At 0337:39 hours, the sound of the Subject firing his first gunshot was heard on Officer A's BWV.

At 0337:41 hours, Officer B's BWV captured him/her moving backward, and taking cover behind the driver side of a sedan parked along the east curb. At 0337:43 hours, Officer B fired two rounds north in the direction of the Subject, because the Subject was standing, facing him/her, with the muzzle of a revolver pointing right in his/her direction. Officer B estimated that he/she was five to 10 feet from the Subject when he/she fired, aiming at his center mass.

Officer B recalled Officer A falling to the ground as he/she fired his/her two rounds. Officer B told investigators that he/she heard Officer A firing at the same time the Subject fired rounds in their direction. Officer B knew that the Subject had fired because he/she observed the muzzle flash from the Subject's pistol. At 0337:49 hours, Officer B broadcast a "shots fired, officer needs help" call.

The investigation determined that Officer B utilized a single right-handed shooting grip to fire two rounds total during the OIS from his/her pistol from approximately 47 feet. Muzzle flash from the Subject's pistol was not observed upon review of the officers' BWV.

Almost simultaneous to Officer B firing his/her rounds, from his/her position on the roadway, Officer A observed the Subject sitting on his butt, pointing his pistol in Officer B's direction. At 0337:43, in defense of his/her partner's life, Officer A fired what he/she believed was two rounds, while lying on his/her left side in the direction of the Subject. Officer A estimated that he/she was 25 to 30 feet from the Subject when he/she fired.

Utilizing a single right-handed shooting grip, Officer A fired his/her fourth round from approximately 38 feet. A review of Officer A's BWV revealed that Officer A fired only one round while he/she was on the ground.

According to Officer A, the Subject was partially hidden behind the semi-trailer, but because of the height of the trailer, he/she could see the Subject's upper torso. Officer A was aiming at his center mass when he/she fired his/her fourth round.

At 0337:50 hours, Officer A moved to the west side of the street to a position of cover behind the engine block of a parked semi-truck. While moving to cover, Officer A utilized his/her pistol's tactical light to illuminate the right-rear portion of the semi-trailer. Officer B remained in a position of cover to the rear of the parked sedan on the east side of the street. Knowing that his/her partner was still on the east side of the street, south of the Subject, Officer A directed Officer B to redeploy to the west side of the street.

At 0337:56 hours, as Officer B redeployed rearward along the driver side of a parked semi-truck, the Subject fired a second gun shot.

At 0037:58, in response to the Subject firing his pistol, Officer A, from his/her position of cover on the west side of the street, fired a fifth round in the direction of the Subject after he/she observed a muzzle flash coming from the Subject's location. Officer A stated that as he/she was holding cover, he/she observed a muzzle flash in his/her direction and fired two more rounds in the immediate direction where he/she observed muzzle flash. Officer A estimated that he/she was 50 feet from the Subject when he/she fired in the direction of the muzzle flash.

Although Officer A recalled firing two rounds at this stage of the OIS, the investigation determined that Officer A fired one round at this time. Officer A used a two-handed shooting grip to fire his/her fifth round from approximately 57 feet. The pistol's tactical light remained on as Officer A fired this round.

At 0338:02 hours, Officer A left the cover of the semi-truck to move to the cover of a minivan, parked one vehicle south. Officer A explained that he/she did this to get a better angle to observe the Subject. Officer A took a position of cover behind the engine block of the van while looking in the Subject's direction.

At the same time, Officer B began running west across the street toward vehicles he/she could use as cover. At 0338:04 hours, as Officer B crossed the street, the Subject was heard firing a third round. Officer B was not struck by gunfire and made it safely to a position of cover behind the engine block of a Dodge truck on the west side the street.

According to Officer A, as he/she acquired his/her sight, he/she observed a muzzle flash causing him/her to fire his/her sixth and seventh rounds at the Subject. At 0338:05 hours, Officer A's BWV captured him/her firing his/her sixth and seventh rounds in the direction of the Subject. Officer A estimated that he/she was 60 to 65 feet from the Subject when he/she fired in the direction of the muzzle flash.

The investigation determined that Officer A utilized a two-handed shooting grip to fire his/her sixth and seventh rounds from approximately 72 feet. The pistol's tactical light remained on as Officer A fired these two rounds.

When asked if he/she knew whether the two rounds were effective or stopped the threat, Officer A stated that he/she did not know how effective they were but did hear the Subject groan, and he sounded in pain. Officer A stated that at that time, he/she lost sight of the Subject, who had moved from his position. At that point, Officer A stated that he/she broadcast to the airship that the Subject was possibly moving northbound. Unbeknownst to Officers A and B, the Subject had moved into a prone position in the shadows next to the right-rear wheel of the semi-trailer, with his head facing south, which prevented the Subject from being seen by the officers.

No longer able to observe the Subject and unsure if he had walked or crawled away, Officer A held his/her position and verified that Officer B had redeployed.

At 0338:14 hours, having lost sight of the Subject, Officer A broadcast shots fired, the Subject was still running and provided his/her location. Officer A then told Officer B to take cover behind the engine block of a vehicle.

At 0338:31 hours, Officer A broadcast the Subject description. At 0338:52 hours, Officer A conducted a tactical reload of his/her pistol. Officers A and B held their positions on the west side of the street until backup units arrived and took over the scene.

At 0339:19 hours, while responding to the "officer needs help" call, Air Unit Officers E (Pilot) and F (Tactical Flight Officer (TFO)) requested the Subject's last known direction of travel. Officer A advised the air unit of the location and stated that the Subject might have crawled northbound.

Even though they had not arrived at the OIS scene, Officer F began to set up a perimeter around the area of the OIS scene. The investigation showed that at this point, Officers A and B had not broadcast a recommended direction of approach for the responding backup units.

At 0339:40 hours, Los Angeles Port Police Officer G was the first backup unit to arrive at scene. Officer G had heard the events unfolding on Harbor Division radio frequency by using the scan feature on his/her Port Police radio. Officer G drove southbound past the involved officers and the Subject because he/she was unclear exactly where they were. As Officer G drove south past their location, Officer A broadcast, "First unit just past us." Officer A requested an additional unit to respond and provided the direction from where he/she wanted them to enter.

Officer G continued driving south to the location of the traffic collision. Officer G then drove back to the involved officers' location. At 0340:50 hours, after being prompted to stop by the involved officers, Officer G stopped his/her police vehicle facing north in the southbound lane, between the officers and the Subject. Officer G exited his/her police vehicle, took a position of cover behind the driver door, and unholstered his/her pistol. After Officers A and B pointed Officer G to the Subject's location, Officer G used his/her vehicle spotlight to illuminate the right rear tire area of the semi-trailer. Officer G could not observe the Subject at this time.

At 0341:06 hours, Officers C and D were the first Los Angeles Police Department (LAPD) backup unit to arrive. They also responded southbound. According to Officers C and D, there was a high volume of traffic on the Harbor Division base frequency and unclear radio broadcasts that caused confusion as to the exact location of Officers A and B. As a result, they decided to drive to the last broadcast location. After observing Officer G's police vehicle stopped in the street upon their arrival, Officer C slowed his/her police vehicle in between the involved officers and the Subject. They directed Officer C to continue south. Officer C drove further south, made an immediate U-turn, and came to a stop east of Officer G's police vehicle.

At 0341:30 hours, Officer G observed the Subject crawling south on the sidewalk behind the tire of the semi-trailer and ordered him to show his hands. The Subject did not comply.

Officers C and D exited their vehicle. Officer D contacted Officer A. Officer D stated that he/she looked at Officer A and observed that he/she was visibly shaken. Officer D believed that Officer A was shot and then looked at Officer B, who also was visibly shaken. Officer D then redeployed to where Officer G was located because it provided him/her with a better distance from Officer G's police vehicle to where the Subject was versus to where his/her car was positioned. Officer A advised Officer D that the Subject was down as he/she pointed in the direction of the semi-trailer. Officer D unholstered his/her pistol and approached Officer G. Officer G advised Officer D that the Subject was near the right-rear wheel of the semi-trailer. Officer D took a position of cover next to Officer G, behind his/her open driver door.

In the meantime, Officer C retrieved his/her buckshot shotgun from the trunk of his/her vehicle and loaded a buckshot round in the chamber (but did not top off the magazine). Officer C then approached Officer G who advised him/her of the Subject's location. Officer C stated at that point, he/she was looking to see exactly where the Subject was located. Officer C stated that he/she was looking under the trailer but did not see him there. Officer C stated that is when he/she saw the Subject's head pop out behind the rear tire of the trailer on the east side of the street.

Officer D unholstered his pistol based on the tactical situation and the fact he/she knew the Subject had already shot at Officers A and B; therefore the situation might rise to a lethal force situation.

Officer C's buckshot shotgun was in the trunk of their vehicle. According to Officer C, they received a Code Three (emergency lights and siren) call right out of roll call and he/she forgot that his/her shotgun was still in the trunk of their vehicle. Officer C normally secured the shotgun in the weapon rack of the vehicle.

At 0342:00 hours, Officer C moved to a position of cover behind the driver door of his/her police vehicle. Officer C held his/her shotgun through the V of the open driver door and aimed in the direction of the Subject with his/her finger on the safety. Officer

C told the Subject not to move. Officer C stated he/she redeployed to get a better angle on the Subject so he/she would have a clear unobstructed view of him. At that point, Officer C observed that the Subject was armed and had what appeared to be a pistol in his right hand, and that's when Officer C told the Subject to "drop the gun" several times.

At 0342:09 hours, after hearing Officer C give the Subject commands, Officer D redeployed to a position of cover behind the driver door of his/her vehicle, to the left of Officer C. Officer D held his/her pistol at the low-ready position with a two-handed grip through the open driver door window.

According to Officer D, after he/she redeployed to join Officer C, he/she observed the Subject lying on the ground with a pistol in his hand. The Subject did an army crawl (low crawl on stomach and elbows) south approximately 12 inches. Officer D described that his/her heart started racing and all that he/she could think of was that the Subject had shot at Officers A and B. Officer D was aware that Officer C was right next to him/her and he/she could see the pistol. Officer D stated that the Subject continued to army crawl towards them and was not stopping even though they were yelling commands to "drop the gun."

At 0342:15 hours, BWV captured both officers giving the Subject commands simultaneously to "drop the [expletive] gun."

Officer G described that when he/she heard Officers C and D giving commands to the Subject, he/she observed the Subject crawling south while sliding an unknown black object forward with his right hand. When the Subject picked up the object with his right hand, Officer G immediately recognized it as a black revolver. Officer G described that the weapon was pointed straight ahead. Officer G stated that he/she could not exactly see where the LAPD officers were, but they were to his/her right and straight ahead from him/her.

The Subject ignored the officers' commands and pointed the black revolver south in the officers' direction. At approximately 0342:20 hours, Officers C and D fired one round each.

Utilizing Officer D's BWV, a sound graph analysis by FID Video Technology Unit (VTU) determined that Officer D fired approximately 0.268 seconds after Officer C.

During a review of Officer G's DICV, at approximately 0342:21 hours, a muzzle flash can be observed from the Subject's revolver. Utilizing Officer G's DICV, a sound graph analysis by FID VTU determined that the sound of Officer C's shotgun buckshot round occurred approximately 0.216 seconds prior to the second gunshot sound. The third gunshot sound occurred approximately 0.056 seconds after the second gunshot sound. The VTU was unable to determine which gunshot sounds belonged to Officer D or to the Subject.

Officer C stated the Subject had what appeared to be a pistol in his right hand and that's when he/she told him to drop the gun several times. At that point the Subject started pointing his pistol towards Officer C and his/her partner (Officer D) and that is when an OIS occurred. Officer C stated that he/she fired one round at the Subject. Officer C stated that the only view he/she had of the Subject at that point was his head because his entire body was covered by the trailer. Officer C stated that was his/her clear and unobstructed view. Officer C stated that he/she took one shot and stayed on the Subject. Officer C stated at that point the Subject was not moving and appeared to be unconscious. Officer C further explained that at that point he/she thought that the Subject was going to shoot him/her or his/her partner and had reason to believe that lethal force was completely necessary.

Officer C advised that he/she utilized a bladed stance from the cover of his/her driver-side door and fired one round from a distance that he/she believed to be 50 feet. Officer C then cycled the action of the shotgun. The investigation determined that Officer C fired one shotgun buckshot round from approximately 67 feet.

Officer D utilized a two-handed grip and fired one round from his/her pistol in the Subject's direction. Officer D stated that his/her reason for firing his/her pistol was because he/she observed the Subject's pistol being pointed at him/her and his/her partner, and he/she believed that Subject was going to shoot them. Officer D could see the muzzle coming towards him/her and because of the threat, Officer D fired one round at the same time he/she heard Officer C firing the shotgun. Officer D then took his/her finger off the trigger to assess and could see the Subject's head going down. Officer D did not fire again.

Officer D stated that he/she utilized a bladed stance and fired one round, aimed at the Subject's face, from approximately one car length. The investigation determined that Officer D fired one round from approximately 69 feet.

Officers C, D, and G, each gave differing descriptions of the pistol the Subject held in his right hand immediately prior to the second OIS. Officer C described it as a tan semiautomatic pistol, Officer D described it as a silver revolver pistol, and Officer G described it as a black revolver pistol.

During a review of Officers C and D's DICV, at 0341:50 hours, the Subject's tan semiautomatic pistol can be observed falling to the cement gutter under the mudflap of the semi-trailer. During a review of the DICVs of Officers C and D, and G, the Subject can be observed holding an object in his right hand, but FID investigators were unable to definitively determine what he was holding due to poor video quality.

During a review of Officer C's BWV, at approximately 0347:45 hours, as Officer C approached with the arrest team, the Subject's tan semiautomatic pistol can be observed near him in the concrete gutter and his stainless-steel revolver can be observed under his right hand and partially under his face.

Immediately after firing their weapons, Officer C alerted the officers at scene, "Shots fired. Shots fired." Officer C then directed Officer A to get a shield and begin setting up an arrest team. Officer D held his/her position of cover behind the driver door with his/her pistol at a low-ready position. According to Officer D, he/she observed the Subject's head move.

At 0343:11 hours, Officer A broadcast that there was a Rescue Ambulance (RA) on standby. Officer A stated that the Subject was down, unconscious, and not breathing due to his injuries.

At 0343:48 hours, an air unit arrived above the OIS scene. At approximately 0344 hours, additional backup patrol officers from Harbor Division began arriving at scene along with Sergeant A, who was the first supervisor to arrive.

The following personnel responded to the OIS: Officers H, I, J, K, L, M, N, and O.

At 0345:20 hours, after ensuring all officers were accounted for and not injured, Sergeant A began to assign officers to approach and take the Subject into custody. Officer I was assigned the ballistic shield for cover as the team approached the Subject. Sergeant A requested an officer equipped with a rifle to provide cover, but at that time, Officer C was the only officer present with a shoulder-fired weapon. As a result, Officer C led with his/her buckshot shotgun as the Designated Cover Officer (DCO). Sergeant A assigned Officer O to cover Officer C with his/her pistol. Officer N was assigned less-lethal with the beanbag shotgun. Officers K and M were designated as arresting officers.

During his/her FID interview, Sergeant A told investigators that he/she declared himself/herself the incident commander (IC). Investigators reviewed Sergeant A's BWV and the Harbor Division radio frequency audio recording and were unable to locate Sergeant A's IC declaration.

Officers I, J, K, N, and O, unholstered their pistols and held them at the low-ready position as they awaited the formation of the arrest team. Each officer cited the OIS, help call, and knowledge of the Subject being armed as their rationale for unholstering.

Officer N advised he/she remained unholstered approximately five seconds before holstering and returning to his/her vehicle to retrieve the beanbag shotgun. Officer J advised that he/she placed his/her pistol on target with his/her finger along the frame until he/she confirmed that the Subject was not moving.

At 0347:05 hours, the arrest team moved forward to take the Subject into custody. The Subject appeared lifeless. As Officers K and M handcuffed the Subject, Officer O moved the revolver pistol away from the Subject and placed it in the gutter near the tan semiautomatic pistol. At 0348:05 hours, Sergeant A directed officers to check for a pulse and Officer O did so but was unable to locate one. Officers K and M searched the Subject, rolled him to a left side recovery position, and removed the bag from across his

chest. At 0348:38 hours, Sergeant A broadcast that the Subject was in custody and requested an RA for an unbreathing Subject (per Sergeant A's BWV).

At 0347:12 hours, Officer D holstered his/her pistol once the contact team began moving forward. At 0348:18 hours, Officer D approached Officer C who stated, "I saw him with a gun." At 0354:35 hours, Officer D unholstered a second time and conducted a chamber check. During a review of BWV, it appeared that Officer D's pistol was pointed in the general direction of officers during the chamber check. Officer D stated that he/she was still processing everything that was happening and wanted to conduct a chamber check to ensure there were no malfunctions.

After the Subject was in custody, Officer C returned to the rear of his/her police vehicle and downloaded his/her buckshot shotgun to patrol-ready. Officer C removed the live buckshot shell from the chamber of the shotgun and placed it into the magazine tube. Officer C explained that it was just natural to render his/her shotgun safe and no one instructed him/her to do so. Officer C then then placed the shotgun in the rear of his/her police vehicle and locked the door.

At 0351:50 hours, Officer H asked Officer G to move his/her police vehicle to make room for the RA ingress. At approximately 0353 hours, the LAFD RA unit arrived and determined that the Subject was deceased.

Sergeant A obtained a public safety statement (PSS) from Officer A, Sergeant B obtained a PSS from Officer B, Sergeant C obtained a PSS from Officer C, and Sergeant D obtained a PSS from Officer D.

BWV and DICV Policy Compliance

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

Officers A and B parked behind the pickup truck, queried the truck's license plate to discover it was stolen, and exited their police vehicle to clear the vehicle on foot. Officer A activated his/her BWV while walking up to the truck, and Officer B activated his/her BWV after the truck was cleared.

Officer C had a reduced buffer, but he/she was at the station prior to responding to the incident. Officer D's BWV was dark during the first 93 seconds of the two-minute buffer. According to Officer D, he/she placed his/her BWV on the door of his/her vehicle while using the restroom instead of turning the camera off.

The DICV from Officers A and B's vehicle was not activated during this incident.

Officers C and D's DICV did not capture audio during the incident. According to Officer D, they left their DICV microphones in the trunk of their vehicle because they responded to a Code Three (emergency lights and siren) call at the beginning of watch and rushed out of the station.

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, B, C, D, and Sergeant A'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, B, C, and D's lethal use of force to be In Policy.

Basis for Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the 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 Officers use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

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

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

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

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be fired at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that

justifies an Officers use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be fired from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding 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 Subject.

Definitions

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

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

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

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate

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

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

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

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

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

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

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

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

A. Tactics

Tactical De-Escalation

Tactical De-Escalation 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 – Officers A and B were working together as partners for the first time and discussed tactics at the start of watch, including contact and cover roles, each officer's weapon system, and foot-pursuit concepts. Officers C and D had worked together three times prior, often discussing tactics at the start of watch that included contact and cover roles, traffic and pedestrian stops, and less-lethal force options available to them. The incident was spontaneous and dynamic which left the officers little time to develop and coordinate a plan specific to this scenario. Sergeant A arrived after the OIS, became situationally aware, and created a tactical plan and arrest team to approach the Subject, using available resources including the air unit's overhead view of the Subject, a ballistic shield, and less-lethal force options.

Assessment – Officers A and B continually assessed the situation as the incident evolved. What started as an investigation of a property crime quickly escalated to a foot pursuit of a Subject, who initially gave no indication of being armed, into a sudden gun battle. At the end of the foot pursuit, Officer B acted on his/her last second assessment that the Subject may have a pistol which stopped him/her from making physical contact with a Subject he/she clearly had caught up to. During the OIS, Officers A and B constantly assessed and reacted to the dangers the Subject posed by creating distance, redeploying, and seeking and utilizing cover. The Subject fired several rounds at Officers A and B, while they assessed the danger of engaging him in close contact and redeployed to create distance and utilize cover. Officers A and B quickly assessed that the Subject had moved to a position of cover and knew the general area he was last seen; however, they lost sight of him. In response, Officers A and B assessed their positions and sought more advantageous positions of cover.

Time and Redeployment/Containment – After Officer A fired his/her fourth round at the Subject, he/she redeployed to the west side of the street to a position of cover, and Officer B remained in a position of cover on the east side of the street. Knowing that his/her partner was still on the east side of the street, Officer A directed Officer

B to redeploy to his/her side of the street. As Officer B redeployed rearward along the driver side of a parked semi-truck to create distance from the Subject, the Subject fired his/her second round. Officer B then redeployed west across the street toward vehicles he/she could use as cover, and the Subject was heard firing his third round. Officer B was not struck by gunfire and made it safely to a position of cover on the west side of the street.

Distance and cover gave the officers time to respond to the Subject's actions and communicate with responding officers. Officers A and B lost sight of the Subject and determined that he may have continued running northbound. Officer A broadcast the Subject's last direction of travel and determined that he/she and Officer B were now in containment mode. After the OIS, Sergeant A used distance and cover provided by a police vehicle's door to create time to slow the situation down and set up his/her resources before safely apprehending the Subject.

The BOPC noted that the UOFRB opined that Officer B's decision to redeploy further south and to the west side of the street created increased distance from the Subject. The UOFRB also noted that Officer A directed Officer B to redeploy to the west side as he/she kept watch of the Subject's location with his/her pistol drawn. The UOFRB opined that Officer B's decision to redeploy from a position of cover on the east side to the west side of the street was reasonable in that it prevented Officer B from being on the same side of the street as the Subject, provided better cover, and improved Officers A and B's ability to communicate and render aid to one another if needed.

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

Other Resources and Lines of Communication – After discovering that the pickup truck was stolen, Officers A and B requested an additional unit, supervisor, and air unit. Once Officer B located the Subject, he/she began giving him commands and notified Officer A of the Subject's location. The officers initiated a foot pursuit and broadcast a backup request once the Subject began running away. During the foot pursuit, they issued commands to the Subject and told him that they would shoot him if he didn't comply. Officers A and B both told FID investigators that they threatened the Subject as a ruse to gain his compliance and they were not actually intending to shoot him. Throughout the incident, the officers communicated with one another, the Subject, and CD.

After Officers A and B lost sight of the Subject, Officer A broadcast that the Subject was "still running." While enroute, the Air Unit requested the Subject's last known direction of travel, and Officer A broadcast that he "might have crawled northbound." The Air Unit began forming a perimeter north and east of the actual OIS location. The Air Unit's perimeter location was repeated by CD, creating more radio traffic and confusing responding officers. Officer G responded southbound and passed the

involved officers and Subject. The investigation determined that a recommended direction of approach had not yet been broadcast. As he/she passed them, Officer A broadcast to only respond northbound and provided a specific route.

Officers C and D responded southbound, driving between the Subject and the officers at scene. The preferred direction of travel would have been northbound. Officers C and D's response resulted from the erroneous initial Code Six (on scene) broadcast and exacerbated by the efforts of the air unit's effort to establish a perimeter and CD's requirement to repeat the information broadcast by the air unit and clarify information from Officers A and B. The fluid and chaotic nature of the event resulted in Officers C and D's southbound response which was quickly rectified at the direction of the officers at scene.

After the OIS, the Subject was lying on the ground with the pistol still in his hand, and Sergeant A requested a ballistic shield and communicated with the air unit to gather more information on the Subject and his actions. As the arrest team moved forward, Sergeant A and the arrest team communicated their observations, and Sergeant A gave clear directions to successfully take him into custody.

With regards to threatening the Subject, the BOPC noted that the UOFRB opined that Officers A and B's threats during the foot pursuit were used as a form of de-escalation to get the Subject to comply to end the situation quickly and without incident. The UOFRB further noted that the Subject had begun turning his head toward Officers A and B multiple times during the foot pursuit and began reaching toward his chest area, opining that the officers were reacting to his actions.

With regards to not broadcasting a direction of approach for responding units in a timely manner, the UOFRB noted that officers had already engaged the Subject in a gun battle and were unsure of where the Subject was, broadcasting that he may have fled northbound and relaying that information to the air unit. The UOFRB also noted the radio frequency was being occupied by the air unit and CD to set up a perimeter north and east of the actual OIS location.

Additionally, the UOFRB noted that Officer A quickly rectified the situation by broadcasting a direction of approach once Officer G drove southbound past them. While the UOFRB would have preferred that Officers A and B had broadcast a direction of travel sooner, the UOFRB opined that the deviation was reasonably justified due to the officers' spike in adrenaline from the foot pursuit of a property crime Subject changing spontaneously to a gun battle.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were a substantial deviation, with justification, from Department-approved tactical training. Based on the totality of the circumstances, the BOPC adopted the Chief's findings that the tactics employed by Officers C and D were not a substantial deviation from Department-approved tactical training.

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

Debriefing Point No. 1 Code Six

Officers A and B located the crashed pickup truck and visually inspected it from their police vehicle. After stopping behind the pickup truck, the officers exited their police vehicle, and Officer A broadcast an additional unit request, providing an incorrect location. As a result, CD broadcast the incorrect location, eventually causing confusion among responding units.

The BOPC considered that the UOFRB noted that Officers A and B had not yet determined if the pickup truck was stolen when they initially observed it stopped in the middle of the street, nor when they arrived at the intersection. The UOFRB opined that there was nothing that the officers observed that indicated to them the truck was stolen nor tied to any specific crime.

The UOFRB noted that once the officers stopped behind the pickup truck and discovered it was stolen, they immediately requested an additional unit and that the request was sufficient to satisfy the intent of the Code Six policy in spite of the erroneous location. Although the UOFRB would have preferred that the officers had broadcast the correct location, the officers were only one block away from their actual location and able to broadcast accurate street names during the foot pursuit. Because of these reasons, the UOFRB did not believe there was a substantial deviation from Department-approved tactical training.

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

Debriefing Point No. 2 Foot Pursuit Concepts

After Officer B located the Subject, he/she gave him commands and the Subject fled on foot, which caused officers to initiate a foot pursuit. Officers A and B did not observe the Subject in possession of a weapon and decided to pursue in apprehension mode. Officers A and B both unholstered their pistol while in foot pursuit based upon their recognition that grand theft auto (GTA) suspects are potentially armed. Neither officer communicated to one another that they believed the Subject was armed. Neither officer had observed specific facts to cause them to believe the Subject to be armed such that the foot pursuit at this initial stage should have been conducted in containment mode.

The BOPC noted that the UOFRB assessed the apparent conflict between the officers drawing/exhibiting their pistols with the directive on chasing armed suspects. The UOFRB acknowledged the standard for drawing/exhibiting is different from the standard related to pursuing armed suspects and that both standards could occur at the same time and not necessarily conflict with one another. The UOFRB noted that

once the officers gained such information to believe the Subject was armed, they began to transition from apprehension to containment mode. The UOFRB acknowledged Officer B's action of slowing down to not overtake the Subject when he/she observed the Subject slow down and reach towards his chest area as an indication of this transition from apprehension to containment mode. They further noted Officer A's action of backing away and redeploying from the Subject when he/she observed the Subject to be armed as an act transitioning from apprehension to containment mode. The UOFRB opined there was not an issue related to apprehension versus containment mode.

In assessing issues related to possible separation during the foot pursuit, the UOFRB noted that the Subject ran north next to the east curb with Officer B approximately 35 feet behind him/her and Officer A running in the northbound lane, approximately 25 feet to the left and rear of the Subject. The UOFRB opined that while there were numerous automobiles, semi-trucks, and trailers with shipping containers parked on both sides of the street, Officers A and B were only 30 feet apart from one another, maintained a line of sight with one another, and were close enough to be able to render aid to one another. The UOFRB also noted that the sidewalk upon which the Subject fled appeared to be cluttered with debris and too narrow for both officers to pursue the Subject. The UOFRB opined that both officers pursuing the Subject on the sidewalk would have given the Subject a tactical advantage and left them no room to offset themselves to prevent crossfire had the Subject decided to turn around and engage the officers. The UOFRB opined that there was not a separation issue.

Near the end of the foot pursuit, Officer A ran ahead of the Subject and moved into his path of a driveway, pointed his/her Taser at him, and illuminated him with the Taser light. Simultaneously, Officer B continued to run approximately 11 feet behind the Subject, causing a momentary possible crossfire situation. The UOFRB noted that at this point, neither officer had determined the Subject to be armed. However, both officers immediately redeployed away from the Subject when they observed him point a pistol at each of them. Officer A redeployed in a southwesterly direction and Officer B redeployed south and then west effectively triangulating the Subject's position and immediately eliminating the potential crossfire situation.

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

Debriefing Point No. 3 Vehicle Stop Tactics

After Officers A and B located the crashed pickup truck, they visually cleared the truck from their police vehicle by driving past it twice, subsequently stopping behind it to query the truck's license plate. Officer B's query revealed that it was stolen and both officers exited their police vehicle. Officer A requested an additional unit and

approached the driver side of the pickup truck to clear it. Simultaneously, Officer B approached the passenger side of the truck, slightly behind Officer A.

The BOPC noted that the UOFRB opined there was nothing Officers A and B initially observed that indicated to them that the truck was stolen or tied to any specific crime. The UOFRB also opined that by driving past the truck, they were able to visually search it from a safe distance while employing the protection and cover afforded by the police vehicle's ballistic door panels. The UOFRB would have preferred that the officers had not driven past the pickup truck but had instead stopped directly behind it to search it; however, the UOFRB opined that this preference was formed based on their hindsight of knowing the truck was stolen. Based upon the information known to the officers at the time, the UOFRB opined that the officers' actions were reasonable.

The UOFRB noted that when the officers stopped behind the pickup truck and approached it, they did so in a manner consistent with conducting a traffic stop. However, they would have preferred that the officers had approached the vehicle on the same side in a manner consistent with high-risk vehicle stops. In opining that their actions were reasonable in this instance, the UOFRB noted that Officers A and B had already cleared the pickup truck prior to stopping and that the search was more cautionary than necessary.

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

Additional Tactical Debrief Topics

Profanity – Once Officer B located the Subject, he/she gave him commands using profanity. After Officer C deployed his/her buckshot shotgun behind the driver door of his/her police vehicle, he/she told the Subject not to move using profanity. After the Subject low-crawled, Officer C used profanity to order the Subject to drop his pistol. Although not the best practice, the officers' use of profanity was not personal in nature or intended to demean or belittle but rather to gain compliance.

Basic Firearms Safety Rules – During the foot pursuit, Officer A unholstered his/her pistol and pointed it in the Subject's direction.

After the arrest team approached the Subject to take him into custody, Officer O provided cover for Officers K and M as they handcuffed the Subject. FID investigators asked Officer O why he/she "covered some of the officers, their legs, et cetera" with his/her pistol. Officer O responded by saying that the BWV footage depicts a different perspective from what occurred and added that his/her pistol was initially pointed at the Subject; then it was pointed towards the ground to allow officers to pass in front of him/her before pointed back at the Subject.

After the OIS, Officer D unholstered his/her pistol and conducted a chamber check. During a review of his/her BWV footage, it appeared that Officer D's pistol was pointed in the general direction of officers during the chamber check. The Basic Firearms Safety Rules are intended to ensure that a negligent discharge does not occur and no one is injured should one occur. Although Officers A, D, and O did not directly cover anyone with the muzzles of their pistols, they could have pointed their pistols further away from others to make certain that their muzzles would not cover anyone.

Single-Handed Shooting – The investigation determined that Officer A used a single right-handed shooting grip to fire his/her first three rounds and Officer B used a single right-handed shooting grip to fire his/her two rounds. Alternatively, Officers A and B could have used a two-handed grip when firing their pistols to improve their shooting accuracy.

Simultaneous, Nonconflicting Commands – While the Subject low-crawled with the pistol in his hand, Officers C and D both commanded him to drop his pistol at the same time. Alternatively, Officers C and D could have determined amongst themselves who would be contact officer and who would be cover officer when confronting the Subject to ensure that only one officer was giving commands.

Incident Commander Declaration – Sergeant A arrived at scene as the first supervisor and did not declare himself/herself as the incident commander (IC) until much later. While Sergeant A immediately engaged in duties indicative of an incident commander, he/she could have declared himself/herself as the IC while broadcasting his/her Code Six status.

Universal Precautions – While the Subject was still being handcuffed, Sergeant A directed officers to check for a pulse, and Officer O checked for a pulse using the Subject's carotid artery with his/her pistol still drawn and without wearing protective gloves. Alternatively, Officer O could have holstered his/her pistol and donned latex gloves before checking the Subject's pulse.

Situational Awareness – After stopping behind the crashed pickup truck, Officers A and B exited their police vehicle, and Officer A broadcast an additional unit request, providing an incorrect location. As a result, CD broadcast the incorrect location, eventually causing confusion among responding units. Alternatively, Officers A and B could have been more aware of their actual location.

Non-Medical Face Coverings – During the incident, officers were observed not wearing facial coverings as directed by the Chief on May 20, 2020.

Command and Control

Sergeant A arrived at scene as the first supervisor and engaged in duties consistent with being the IC but did not declare himself/herself as the IC. After ensuring that all

officers were accounted for and not injured, Sergeant A formed the arrest team to take the Subject into custody, making their approach to handcuff him. Once the Subject was taken into custody, Sergeant A ensured that the involved officers had been separated and monitored, with their public safety statements (PSSs) obtained. Sergeant A also ensured that the crime scene was managed, with any evidence preserved.

Sergeants B, C, and D arrived at scene to assist in gathering the involved officers' PSSs. Sergeant A obtained a PSS from Officer A, Sergeant B obtained one from Officer B, Sergeant C obtained one from Officer C, and Sergeant D obtained one from Officer D. Each Sergeant ordered their perspective officer not to discuss the incident prior to FID's arrival.

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

Tactical Debrief

In conducting an objective assessment of this case, the BOPC found that Officers A and B's actions substantially deviated from Department-approved tactical training but were justified. The BOPC also determined Officers C, D, and Sergeant A's actions were not a substantial 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.

Drawing/Exhibiting

Officer A (1st Occurrence)

Officers A and B stopped behind the crashed pickup truck and discovered that the vehicle had been reported stolen. Officer A exited the police vehicle and unholstered his/her pistol, holding it in his/her right hand and pointing it in the direction of the pickup truck. At the same time, he/she used the flashlight that was attached to his/her service pistol to illuminate the vehicle as they verified the truck was unoccupied.

Officer A (2nd Occurrence)

At 0336:51 hours, Officer A broadcast the foot pursuit. As both officers ran after the Subject, they gave him commands to get down on the ground and show them his hands. The Subject ran north and turned his upper body to the left, looking in Officer A's direction. Officer A unholstered his/her pistol with his/her finger along the frame,

using a single-handed grip and pointing it in the Subject's direction. Officer A used the tac-light attached to his/her pistol to illuminate the Subject.

Officer A (3rd Occurrence)

According to Officer A, he/she attempted to gain compliance by using the sounds of a Taser "spark check," and the Subject did not comply, producing a pistol and pointing its barrel at him/her while saying, "Get back." In fear for his/her own life, Officer A holstered his/her Taser, transitioned his/her police radio into his/her left hand, and unholstered his/her pistol.

Officer B (1st Occurrence)

Officers A and B stopped behind the crashed pickup truck and discovered that it had been reported stolen. Officer B exited the police vehicle and unholstered his/her pistol with his/her finger along the frame, holding it at a low-ready position. Officer B stated that he/she unholstered his/her pistol because GTA suspects are sometimes armed and the situation could escalate to lethal use of force.

Officer B (2nd Occurrence)

While Officer A was verifying the status of the pickup truck, Officer B used his/her handheld flashlight to briefly illuminate the tree line on the north side of the street as he/she walked back to their police vehicle. Officer B unholstered his/her pistol and used the attached light to scan the area for the Subject. Officer B held his/her pistol in the high-ready position, with a one-handed grip, finger on the frame, pointed west in the direction of the palm tree line on the north side of the street.

Officer C (Buckshot Shotgun)

After Officers C and D arrived at scene, Officer C exited his/her police vehicle and retrieved his/her buckshot shotgun from the trunk of his/her vehicle, loading a buckshot round in the chamber and not topping it off. Officer C then approached Officer G who advised him/her of the Subject's location. Officer C moved to a position of cover behind the driver door of his/her police vehicle, holding his/her shotgun through the V of the open driver door and aiming in the direction of the Subject with his/her finger on the safety.

Officer D (1st Occurrence)

After Officers C and D arrived at scene, Officer D exited his/her police vehicle and spoke with Officer G, who advised him/her that the Subject was down as he/she pointed in the direction of the semi-trailer. Officer D unholstered his/her pistol and took a position of cover next to Officer G, behind his/her open driver door.

Officer D (2nd Occurrence)

At 0354:35 hours, Officer D unholstered a second time and conducted a chamber check, wanting to verify there was not a malfunction with his/her pistol.

The BOPC noted that the UOFRB assessed Officers A, B, and D's drawing and exhibiting of their pistols and Officer C's drawing and exhibiting of his/her buckshot shotgun. The UOFRB noted that Officer A and B's first instance of drawing and exhibiting their pistols was upon discovering the pickup truck had been reported stolen and while clearing the truck. Officer A and B's second instance of drawing and exhibiting their pistol was upon discovering the hiding Subject to be a GTA suspect, prior to the initiation of the foot pursuit. Officer A's third instance of drawing and exhibiting was upon observing the Subject in possession of a pistol. Officers C and D observed the Subject armed with a pistol and were aware that officers had already engaged the Subject with lethal force. Officers C and D drew and exhibited their buckshot shotgun and pistol, respectively, in response to the Subject's imminent lethal threat. Based on the available evidence, the UOFRB opined that each instance of Officers A, B, C, and D's drawing and exhibiting conformed to 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 that Officers A, B, C, and D's drawing/exhibition of their firearms were In Policy.

Lethal Use of Force

Officer A – Pistol, seven rounds from distances of approximately 15 to 72 feet, in a northerly direction.

Rounds One, Two, and Three

According to Officer A, the Subject produced a tan semiautomatic pistol in his right hand, close to his rib cage, and pointed it in Officer A's direction. The Subject then turned and pointed his pistol at Officer B. At 0337:34 hours, in defense of Officer B's life, Officer A fired three rounds in rapid succession using a single right-handed shooting grip while moving rearward from approximately 15 feet.

Round Four

According to Officer A, he/she observed the Subject sitting on his butt and pointing his pistol in Officer B's direction. At 0334:43 hours, in defense of his/her partner's life, Officer A fired one round with a single right-handed shooting grip, while lying on his/her left side, in the Subject's direction from approximately 38 feet. Although

Officer A recalled firing two rounds, a review of Officer A's BWV revealed that he/she fired only one round.

Round Five

According to Officer A, he/she observed Officer B redeploy to his/her position and observed a muzzle flash. Believing that the Subject was shooting at them, Officer A fired one round in the Subject's direction with a two-handed shooting grip from approximately 57 feet.

Rounds Six and Seven

According to Officer A, he/she "acquired his/her sights" and observed a muzzle flash, causing him/her to fire his/her sixth and seventh rounds in the Subject's direction at 0338:05 hours. Officer A used a two-handed shooting grip to fire both rounds from approximately 72 feet.

Officer B – Pistol, two rounds from approximately 42 feet, in a northerly direction.

Rounds One and Two

According to Officer B, he/she moved backward to take cover behind the driver side of a parked sedan. At 0337:43 hours, Officer B fired two rounds in the Subject's direction because the Subject was standing, facing him/her, with the muzzle of the revolver pistol pointing in his/her direction.

Officer C – Shotgun, one round from approximately 67 feet, in a northerly direction.

Round One

According to Officer C, the Subject was lying prone on top of the curb and was barricaded between two vehicles. The Subject began moving his right arm towards Officers C and D, pointing the muzzle of his pistol at them. Officer C believed that the Subject was going to shoot him/her or his/her partner when he/she aimed at the Subject's head, which was the only portion of the Subject that was visible to him/her, and fired one buckshot round in defense of his/her and his/her partner's life.

Officer D – Pistol, one round from approximately 69 feet, in a northerly direction.

Round One

According to Officer D, he/she and Officer C gave the Subject commands to drop his pistol, but he ignored them and pointed his pistol in their direction. At 0342:20 hours, Officer D aimed at the Subject's face, which was the only portion of him that was visible to him/her, and fired one round with his/her pistol, using a bladed stance in defense of his/her and his/her partner's life.

The BOPC noted that the UOFRB assessed Officers A, B, C, and D's lethal use of force, and the UOFRB findings were unanimous.

As it pertains to Officers A and B, the UOFRB opined that their lethal use of force was in direct response to the imminent lethal threat posed by the Subject. The UOFRB noted that at the end of the foot pursuit, the Subject turned and pointed his pistol at close range at both officers. Additionally, the UOFRB noted that after the officers fired their pistols in defense of their own and partners' lives, the Subject fired his pistol at the officers. The UOFRB opined that this forced the officers to respond with lethal force again. The UOFRB opined that given their situation, the officers were firing in a controlled manner based on the Subject's actions. Therefore, the UOFRB determined that Officers A and B's lethal use of force was proportional, objectively reasonable, and necessary.

As it pertains to Officers C and D, the UOFRB noted that the officers were already aware that Officers A and B had been involved in an OIS with the Subject. The UOFRB further noted that Officers C and D observed the Subject lying prone behind cover of a semi-truck and armed with a pistol. Additionally, the UOFRB noted that the Subject crawled toward Officers C and D, lifted his pistol toward them, and pointed it at them. The UOFRB opined that Officers C and D's lethal use of force was in direct response to the imminent lethal threat posed by the Subject and determined that it was proportional, objectively reasonable, and necessary.

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, in the same situation, would reasonably believe that the lethal use of force was proportional, objectively reasonable, and necessary. Therefore, the BOPC found that Officers A, B, C, and D's lethal uses of force were In Policy.