

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

**OFFICER-INVOLVED SHOOTING – 055-22**

| <b>Division/Area</b> | <b>Date</b> | <b>Duty-On (X) Off ()</b> | <b>Uniform-Yes (X) No()</b> |
|----------------------|-------------|---------------------------|-----------------------------|
|----------------------|-------------|---------------------------|-----------------------------|

|        |          |  |  |
|--------|----------|--|--|
| Newton | 11/14/22 |  |  |
|--------|----------|--|--|

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
|--|--------------------------|

|           |                  |
|-----------|------------------|
| Officer B | 8 months         |
| Officer F | 1 year 1 month   |
| Officer H | 4 years 3 months |

**Reason for Police Contact**

Officers received a radio call of an assault with a deadly weapon (ADW). Upon the officers' arrival, they observed the Subject near a restaurant in possession of what they believed to be a pistol. The Subject ignored the officers' commands and ran away with the pistol. The officers slowly followed her in their vehicles and continued to give her commands to "drop the gun," which she did not comply with. The Subject turned in the direction of the officers, resulting in an officer firing one 40mm less-lethal launcher (LLL) foam round at her. Simultaneously, an additional officer fired one round from his/her pistol at the Subject. Within seconds, a third officer fired an additional 40mm LLL foam round. The Subject was struck in the buttocks with both 40mm LLL rounds, but was not struck by the officer's pistol round. The Subject continued to flee with the pistol and later threw it into the street. She then ran into a laundromat and was subsequently taken into custody without incident. The investigation determined that the Subject was in possession of an Airsoft pistol.

| <b>Subject(s)</b> | <b>Deceased ()</b> | <b>Wounded (X)</b> | <b>Non-Hit ()</b> |
|-------------------|--------------------|--------------------|-------------------|
|-------------------|--------------------|--------------------|-------------------|

Female, 57 years of age.

**Incident Summary**

On Monday, November 14, 2022, at approximately 0920 hours, Officers A (driver) and B (passenger) responded Code Three (with emergency lights and siren activated) to a "possible ADW suspect there now" radio call. While enroute to the call, the officers discussed tactics and their assigned roles. Officer B read the comments of the call out loud to his/her partner and they requested further information from Communications Division (CD) regarding the Subject's location.

Officers C and D also responded to the call.

At approximately 0925 hours, Officers A, B, C, and D arrived at a restaurant in the area of the reported ADW and broadcast they were at scene. The officers entered the parking lot of the restaurant and met with Witness A. Witness A advised the officers in Spanish that he observed the Subject in the drive-through area of the restaurant with what he believed to be a toy gun underneath her armpit. Officer A informed his/her partner that the witness believed the gun was a toy, Officer C did not inform his/her partner. Neither unit updated CD with this information.

The officers entered their vehicles and began searching for the Subject. They located her standing in front of a closed business.

Officers A and B exited their vehicle and gave the Subject commands to turn around. When Officer A observed the Subject with a pistol under her left armpit, he/she unholstered his/her pistol and held it in his/her right hand at a low-ready position. Meanwhile, Officer B who was designated the less-lethal force officer was armed with the 40mm LLL. Additionally, Officers C and D were positioned just south of Officer A's position. They also exited their vehicle with their pistols unholstered and held at the low-ready position. The Subject ignored the officers' repeated commands to drop her pistol and walked away south through the shopping center. The officers followed the Subject in their vehicles.

At 0927:14 hours, Officer D requested a backup and an air (helicopter) unit for a "415" (disturbing the peace) female with a firearm.

Officers E (driver) and F (passenger) responded to the backup request. At approximately 0928 hours, the officers arrived at scene and drove parallel to Officers A and B's vehicle. They were traveling west, following the Subject who was walking on the north sidewalk.

According to Officer A, they were in containment mode while following the Subject and using their vehicles for cover. The officers' digital in-car video DICV recorded the Subject repeatedly placing the pistol to her head and running away.

While following the Subject, Officer E directed Officer F to retrieve the 40mm LLL and order the Subject to drop the pistol. At 0928:17 hours, Officer F removed the 40mm LLL from the vehicle rack and chambered a foam round. He/she then used the vehicle's public address (PA) system and stated, "Drop the gun. You, running with the gun right there, drop it." The Subject ignored the officers' commands to "drop the gun" and continued to flee west on the sidewalk. The Subject's actions were erratic, as she repeatedly placed the muzzle of the pistol against the side of her head and/or waved it in the air.

The officers were travelling side by side and verbally communicating their plan with one another from their vehicles. The officers were concerned for the community's safety. They agreed that Officer B, equipped with a 40mm LLL, was designated as the less-lethal force officer and planned to fire a foam round to cause the Subject drop the pistol and surrender. At 0929:40 hours, Officer A advised Officers E and F that his/her partner (Officer B) would utilize the 40mm LLL when the opportunity presented itself.

At that point, the officers had followed the Subject for approximately three minutes and attempted to get her to drop the pistol without success.

Meanwhile, Officers G and H arrived on scene and joined the group of officers following the Subject in their vehicles.

At 0930:03 hours, Officer A stopped his/her vehicle and directed Officer B to fire a 40mm LLL foam round at the Subject. Within seconds, Officer B stepped out of the vehicle with the 40mm LLL. From a standing position, he/she aimed at the Subject's belt line and fired one foam round in a northwesterly direction from approximately 33 feet. The round struck the Subject on her left buttock.

Officer B did not give the Subject a use-of-force warning. When asked by Force Investigation Division (FID) investigators why no warning was given, Officer B stated that his/her main reason was element of surprise but also that he/she didn't feel he/she had time, and that it was difficult to talk and shoot at the same time.

At 0930:05 hours, Officer E angled his/her vehicle toward the Subject and stopped. Officer F stepped out of the vehicle with his/her pistol in his/her right hand and used the door for cover. Officer F was positioned to the left of Officer A, who was driving the vehicle next to him/her. According to Officer F, since Officer B was going to use the 40mm LLL, Officer F assumed the role of the designated cover officer (DCO).

Officer F stated, "The other unit had advised that - - I asked them - - we asked them if they had a 40 and they said that they did. I drew and exhibited my firearm just due to the fact that the suspect was armed and our lethal - - a lethal role was not filled to provide lethal cover."

At 0930:08 hours, Officer F aimed his/her pistol with a two-hand shooting stance at the Subject and fired one bullet round in a northwesterly direction from approximately 45 feet. The round did not strike the Subject. After firing his/her round, Officer F entered the vehicle and holstered his/her pistol.

Officer F stated, "As the suspect continued to run on foot, there was a moment to where she turned and faced my partner and with the firearm held in her hand. At that moment I felt that my partner's life was in danger and myself was in danger. I was in fear for my life and my partner's life."

Officer F was asked why he/she fired his/her pistol. Officer F stated, "Like I said, you know, I observed her facing us to our direction. I believed that she was going to move the firearm up to my direction and shoot at myself or my partner or the other officers that were nearby. I believed that she was going to shoot -- shoot at us." Officer F further stated that while the Subject held the pistol in her right hand, she was swinging the pistol from right to left towards Officer F as she faced him/her.

At 0930:21 hours, Officer A broadcast, "shots fired, officer needs help." He/she also broadcast that they were continuing west.

According to Officer F, there were no pedestrians in the immediate area and his/her shooting background consisted of a metal fence and apartment complex.

The investigation determined that the single bullet round fired by Officer F was a non-penetrating impact to the exterior wall of the residence.

Officers G and H were the third vehicle in trail and positioned directly behind Officers A and B. According to Officer H, he/she observed the Subject with a pistol tucked underneath her armpit. She then turned in the officers' direction, grabbed the pistol and pointed it toward the officers. Officer H was already out of their vehicle with the 40mm LLL. From a standing position, he/she aimed at the Subject's lower left leg and fired one foam round in a northwesterly direction from approximately 49 feet. The foam round struck the Subject on her left buttock. According to Officer H, he/she was unable to give a use-of-force warning because he/she did not have time.

The investigation determined that Officer B (40 mm LLL) fired first, followed by Officer F (pistol), and ending with Officer H (40mm LLL). All three rounds (two foam and one bullet) were fired within approximately four seconds.

The Subject was struck by the foam rounds as she ran away. The officers entered their vehicles and continued following the Subject. Officer H followed on foot using the parked vehicles for cover while still holding the 40mm LLL. As she ran, CCTV imagery captured the Subject turn, and point the pistol in the officers' direction. Officer H unholstered his/her pistol and ordered the Subject to "drop the gun." At approximately 0930:45 hours, the Subject threw the pistol into the middle of the roadway. The pistol slid on the asphalt causing the magazine to eject from it.

Officer H observed the Subject throw the pistol in the roadway. According to Officer H, he/she picked up the pistol because he/she was concerned for the safety of the community. The Subject continued west and entered a laundromat.

The investigation determined that the pistol recovered by Officer H was a plastic Airsoft pistol.

Officers A, B, C, D, E, F, and G entered the laundromat. They located the Subject, evacuated the location of patrons, and formulated a plan to take the Subject into custody. Following the designation of roles, the officers approached the Subject and handcuffed her without incident.

At approximately 0931 hours, Officer A requested a rescue ambulance (RA) to respond and stage. Los Angeles Fire Department (LAFD) responded and transported the Subject to a hospital for medical treatment.

Sergeants A and B responded to the incident. At approximately 0932 hours, Sergeant A was the first supervisor to arrive. Sergeant B arrived shortly thereafter and broadcast that they were at scene. Sergeant A became the incident commander (IC) and verified that an officer-involved shooting (OIS) had occurred. He/she identified the officers involved and directed Sergeant B to separate, monitor, and obtain a public safety

statement (PSS) from Officer F. Sergeant A directed the officers to establish a crime scene and canvass the area for witnesses.

Regarding Sergeant B's response to this incident, Sergeant B told investigators, "They described her as a female white with a gun. And then [he/she] requested a backup airship and more resources. That's when I began to respond. As I was heading that direction -- I was trying to get out of the drive-through, because I was trying to get breakfast [...] That's when the help call came out. So then I activated my Code 3 response to respond to the help call, because the officers had broadcasted "officer needs help, shots fired."

At 0930:04 hours, Sergeant B's BWV 2-minute pre-activation buffer recording began. At this time the BWV device appears to have been face-down on the seat of the police vehicle. At 0931:42 hours, Sergeant B picked up his BWV camera and attached it to his shirt.

At 0931:51 hours, Sergeant B began driving to the OIS location. This was approximately 4 minutes and 37 seconds after the backup request and 1 minute and 30 seconds after the help call.

On arrival, Sergeant B separated Officers E and F, directed them to turn off their BWV, and took a PSS from Officer F. Sergeant B relinquished monitoring duties of Officer E to Sergeant C. The officers were subsequently transported to the station and monitored until they were relieved by detectives.

### **BWV and DICV Policy Compliance**

| NAME      | TIMELY BWV ACTIVATION | FULL 2-MINUTE BUFFER | BWV RECORDING OF ENTIRE INCIDENT | TIMELY DICV ACTIVATION | DICV RECORDING OF ENTIRE INCIDENT |
|-----------|-----------------------|----------------------|----------------------------------|------------------------|-----------------------------------|
| Officer A | Yes                   | Yes                  | Yes                              | Yes                    | Yes                               |
| Officer B | Yes                   | Yes                  | Yes                              | Yes                    | Yes                               |
| Officer C | Yes                   | Yes                  | Yes                              | Yes                    | Yes                               |
| Officer D | Yes                   | Yes                  | Yes                              | Yes                    | Yes                               |
| Officer E | Yes                   | Yes                  | Yes                              | Yes                    | Yes                               |
| Officer F | Yes                   | Yes                  | Yes                              | Yes                    | Yes                               |
| Officer H | Yes                   | Yes                  | Yes                              | No                     | No                                |

### **Los Angeles Board of Police Commissioners' (BOPC) Findings**

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

## **A. Tactics**

The BOPC found Officers A, B, C, D, E, F, and H's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

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

## **C. Less-Lethal Use of Force**

The BOPC found Officers B and H's less-lethal use of force to be In Policy.

## **D. Lethal Use of Force**

The BOPC found Officers F's lethal use of force to be In Policy.

## **Basis for Findings**

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

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

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

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20

vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

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

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;

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

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

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

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

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

**Note:** Because the application of deadly force is limited to the above scenario, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe



the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

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

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

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

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

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

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

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

**Requirement to Intercede When Excessive Force is Observed:** An officer shall intercede when present and observing another officer using force that is clearly beyond

that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

## Definitions

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

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

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

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

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

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

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

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

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

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

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

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

## A. Tactics

### Tactical De-Escalation

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

#### Tactical De-Escalation Techniques

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

Tactical de-escalation does not require that an officer compromise his/her 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.

### Tactics

- *Department policy relative to a Tactical Debrief is: “The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could be improved. The intent of a Tactical Debrief is to enhance future performance by reviewing and analyzing Department-wide training, practices, policies, and procedures.”*

*Department policy relative to Administrative Disapproval is: “A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training”*

*(Los Angeles Police Department Manual, Volume 3, Section 792.05).*

*The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident-specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.*

## **A. Tactics**

### **Tactical De-Escalation**

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#### *Tactical De-Escalation Techniques*

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**Planning/Assessment** – Officer A has been working with Officer B for approximately three weeks. During those three weeks, they discussed less-lethal and lethal force options, cover, contact, and de-escalation. While responding to this radio call, Officers A and B discussed roles and tactics.

Officer C and D were partners for two years at the time of this incident. As they responded, they discussed contact and cover officer roles and less-lethal and lethal force roles, depending on which side of the police vehicle they found the Subject. They also discussed their approach to this radio call.

Officer E and Officer F discussed contact and cover roles, communications, and less-lethal and lethal force roles. In responding to this incident, Officer F conveyed the suspect and radio call information to Officer E. As they arrived to the call, Officer E advised Officer F to prepare the 40mm LLL.

Officers G and H were partners for the first time and discussed contact, cover, and tactics at the start of their watch. Officer H also conveyed to Officer G information related to the Subject.

While responding to the radio call, Officer B requested Communications Division (CD) for an update on the Subject's location. After speaking with Witness A and receiving information about the Subject's direction of travel, Officer A developed a plan and directed Officers C and D to respond through the restaurant drive-through area while he/she and Officer B approached from the other side of the building.

Upon locating the Subject, Officer D told his/her partner to stop the police vehicle. Officer D assessed the environment and found the Subject armed with a pistol. Officer D gave commands to the Subject, but she refused to comply and fled on foot. Officer A initially believed that the Subject had dropped her pistol after she walked away from them in the shopping center, but Officer B saw that the Subject continued to possess the pistol and alerted Officer A of his/her observations.

All officers continued to assess the Subject as she walked westbound. Officer A, observed pedestrians in the Subject's path, directed them to move away from her, and reminded officers to be cognizant of their background. After Officers A and B advised they would fire the 40mm LLL, Officer F transitioned to the role of a designated cover officer (DCO) but did not advise the other officers he/she had done so.

Officer B continually assessed the environment and the Subject's actions. Officer B raised the 40mm LLL and targeted the Subject's beltline area, placing his/her finger on the trigger while coming on target. Officer B fired one foam round, striking the Subject in the buttocks. Officer F assessed the Subject turning and facing them with her pistol moving in a motion towards the officers. Officer F feared for their safety and fired one bullet round from his/her pistol because he/she believed there was no other option when the Subject pointed her pistol towards them. After hearing two "pops," Officer H continued to assess the Subject and believed that there was an immediate threat of violence and danger to the public as the Subject walked away with the pistol in her hand. Officer H aimed the 40mm LLL at the Subject's lower left leg and fired one foam round, striking the Subject's left buttock.

After the Subject dropped her pistol, Officer H seized it and immediately recognized it to be a replica. He/she stated that his/her training and background in firearms caused him/her to differentiate the Subject's replica pistol to that of a functional pistol due to its weight and condition. Although Officer H maintained the pistol in his/her hand and was aware of it being a replica, the muzzle was not pointed in a safe direction as he/she continued to follow the Subject. He/she did not immediately secure it in a trunk of a police vehicle nor alert the other officers of its condition. The Subject continued to flee and eventually entered a laundromat.

Before the Subject entered the laundromat, Officer D had been aware that the Subject had dropped the pistol. Officer D directed his/her partner to position himself/herself near the exterior entrance of the laundromat. He/she assessed the interior and directed the patrons to exit. Officer D then planned an arrest team and directed Officer E to assume the responsibility for radio communications. Officers A, C, D, and H entered the laundromat. Officer A was the last to enter and observed additional patrons inside the laundromat. Officer A directed the remaining patrons in the laundromat to exit. Officer D designated officers' roles and positions as they entered the laundromat.

Officer D assessed the need for an additional arrest team on the opposite side of the laundromat for containment should the Subject decide to flee in that direction.

The initial arrest team assessed the Subject and saw no visible weapons in her hands and Officers A and D took the Subject into custody without incident.

**Time, Redeployment and/or Containment** – As officers continued to follow the armed Subject westbound in their police vehicles, Officer D requested other responding units to divert traffic at the approaching intersections. The air unit assisted with coordinating a perimeter and directed units to block traffic at various points surrounding the incident. Officer A then told the units following the Subject to “hold tight.” According to Officer A, he/she attempted to reduce the intensity of the situation and have the officers maintain distance from the Subject as they followed her in containment mode while she continued to wave the pistol.

Officer A told Officer B not to get too close and he/she (Officer A) positioned the police vehicle at a safe distance that allowed him/her to give the Subject commands and for Officer B to deploy and fire the 40mm LLL if warranted. After the Subject discarded her pistol, Officer A directed the units to form an arrest team, slow things down, and be mindful of cover. Officers C and D redeployed to a nearby intersection as the Subject fled into the laundromat.

Once inside the laundromat, Officer D directed the second arrest team, led by Officer E, to deploy on the other side of the laundromat to continue evacuating the building of patrons and assist with containing the Subject.

**Other Resources** – After verifying that the Subject was armed, Officer D requested a back-up, supervisor, and air unit. Officers A, E, and F subsequently deployed their 40mm LLL. After the use of the 40mm LLL by Officers B and H and the OIS, Officer A requested an RA to stand by as the Subject continued to flee on foot toward the laundromat. Officer A requested the air unit to have officers respond to the area of the OIS to canvas for any possible victims, but none were found.

**Lines of Communication** – As Officer A responded to the radio call, he/she assigned Officer B as a less-lethal force officer and designated himself/herself as the officer giving commands to the Subject. While responding to the call, Officers A and B continued to communicate with each other and shared pertinent information. Officers C and D also communicated with each other while responding to the radio call.

Officers A and C met with Witness A who stated that the Subject was armed with a pistol or possibly a toy pistol. Officer A relayed this information to Officer B; however, Officer C did not convey to Officer D whether the pistol was real or a replica.

Upon initially contacting the Subject, Officer D began broadcasting pertinent information, including the Subject’s actions with the pistol and direction of travel. While Officer D handled the radio communications, Officer A provided commands to the Subject to turn around and “drop the gun” from her armpit. Officer D broadcast information and updated responding units as they followed her. Officers E and F were the third unit to arrive. Officer E alerted Officer F that the Subject had a pistol. Officers

G and H were the fourth unit to arrive and alerted each other that the Subject was in possession of a pistol.

Officer F directed the Subject to “drop the gun” repeatedly over the public address (PA) system. Officer A advised Officers E and F that his/her partner, Officer B was going to fire the 40mm LLL round at the Subject. Officer A alerted officers by shouting, “40, 40, 40,” to advise them of the imminent firing of 40mm LLL rounds. Officer F also directed the Subject to “drop the gun” before he/she fired his/her pistol, then advised the officers around him/her that shots had been fired.

Officers B and H did not alert other officers that they were ready to fire their 40mm LLL before discharging them. After Officer H fired his/her 40mm LLL, he/she told the Subject, “drop the gun, drop the gun,” as she ran west. Officer H requested Officers B and F to leave their passenger side police vehicle doors open as they moved forward so he/she could utilize them as cover, along with the parked cars, as he/she approached on foot. Officer H declared loudly to other officers that the Subject had “dropped the gun” and he/she would retrieve it.

During the investigation, Officer H stated that it was not feasible to give a warning prior to firing the 40mm LLL because the situation was quickly evolving. After the supervisor arrived at the scene and the tactical situation was over, the supervisor inquired as to who had fired the 40mm LLL. Officer B informed the supervisor that he/she had fired one 40mm LLL foam round. It is unknown if/when Officer H notified a supervisor that he/she had fired the 40mm LLL.

Officer B stated that it was not feasible to give a warning and he/she wanted to use the “element of surprise.” He/she also stated he/she could not acquire a target while giving a warning at the same time.

Officer D broadcast that a 40mm LLL was fired, and Officer A broadcast a “shots fired, help call” with an updated direction of travel for the Subject. Officer D continued to broadcast and advise over the radio that the Subject discarded the pistol. Officer E also told his/her partner that the Subject threw the pistol into the street.

After the Subject entered the laundromat, Officer C deployed the Taser. Officer A resumed communications with the Subject after she entered the laundromat and provided a Taser warning to the Subject. As multiple officers began to communicate with the Subject, Officer H communicated to the officers to cease speaking at once and allow Officer A to be the sole designated person to communicate with her. After the arrest team was set up, the Subject was taken into custody without further incident.

The BOPC noted that the UOFRB would have preferred the officers to provide the use-of-force warnings prior to discharging the 40mm LLLs and Taser. The UOFRB recognized only five seconds had passed between the officers stopping and exiting their police vehicles and force being utilized. The UOFRB considered the officers’ statements and video evidence and determined a warning was not feasible in this incident.

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

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

### **Debriefing Point No. 1 Cover and Concealment**

Officers A, B, D, C, E, F, G, and H followed the Subject from a distance as she fled west. At one point, the police vehicles stopped, and Officer H exited his/her police vehicle and walked up to Officers A and B's vehicle with the intent to use their door as cover. The Subject, who was on the sidewalk, began running from the officers and Officer H ran on the roadway following the Subject.

The BOPC noted that the UOFRB assessed Officer H's decision to leave his/her police vehicle's door for cover to move up to Officers A and F's police vehicle. The UOFRB noted that Officer H advised Officer B to keep his/her police vehicle door open, so he/she could utilize it for cover. The UOFRB also noted that Officer H also used the parked vehicles along the curb and opined that it was common patrol practice to run from cover to cover. The UOFRB assessed that Officer H was in the street and offset from the Subject, who was on the sidewalk. The UOFRB noted that Officer H adapted to the evolving tactical situation and the Subject's erratic and unpredictable behavior. Additionally, Officer H attempted to utilize cover that was available to him/her as he/she followed the Subject on foot from a distance.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer H were not a deviation from Department-approved tactical training.

### **Debriefing Point No. 2 Code Six**

Officers E, F, G, and H responded to Officer D's backup request. Neither unit placed themselves Code Six (broadcast that on scene) upon their arrival.

According to Officer E, he/she stated that he/she placed his/her unit Code Six once there was a Code Four (no further assistance required) due to the tactically fluid situation. Furthermore, he/she stated that there were units already Code Six, a lot of information being broadcast to responding units and he/she did not want to "tie up the radio," as it was not tactically sound.

According to Officer F, he/she did not go Code Six because the situation was tactically evolving as the Subject was running with a pistol. Officer F stated that he/she wanted to keep the air clear for broadcasting purposes.

According to Officer H, he/she did not place themselves Code Six due to the exigency and nature of the backup. Officer H stated he/she did not want to "tie up the radio" and left the air open for the officers to continue broadcasting pertinent information.

The BOPC noted that the UOFRB assessed Officers E, F, and H's adherence to the Department's Code Six policy. The UOFRB noted that the frequency was occupied when Officer D was broadcasting pertinent information regarding the Subject's direction



of travel and her threatening actions. The UOFRB also noted that shortly after the responding officers' arrival, the Subject escalated the incident by pointing her pistol to her head, waving it around, and pointing it in the officers' direction. As such, the UOFRB opined that it would not have been prudent for officers to update their status via their mobile digital computer (MDC) or over the radio. Additionally, the UOFRB opined that the officers' subsequent broadcasts would have been an indication they had arrived at the scene.

The UOFRB noted that the spirit and purpose of the Code Six policy is for officers to advise CD of their location and the nature of their activity, should the incident necessitate the response of additional personnel. Although the UOFRB would have preferred that officers had placed themselves Code Six, there were already two units Code Six that had requested a backup and with multiple officers responding, along with an air unit, these officers would have easily been located should assistance be needed. In this rapidly unfolding situation, the UOFRB opined that it was better that they kept the frequency clear and maintained their focus on the Subject, who posed a significant threat to the community and the officers.

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

### **Additional Tactical Debrief Topics**

**Ballistic Shield** – Although not required, an additional tool when dealing with armed suspects, a ballistic shield may have provided the officers with additional cover and a tactical advantage in this incident.

**Code Three** – Officers G and H did not advise CD that they were responding Code Three to the backup request. When feasible, it is preferred officers advise they are responding Code Three and their starting location. Officers G and H are reminded that the purpose of broadcasting a Code Three response is to advise CD and officers in the area of their emergency response, as well as to avoid potential traffic collisions with other officers responding to the same incident.

**Initiating Physical Contact while Holding a Weapon System** – Officer C was designated as the Taser officer after the Subject entered the laundromat. When Officers A and D approached as part of the arrest team to take the Subject into custody, Officer C grabbed the Subject's right wrist with his/her left hand while holding the Taser in his/her right hand. Alternatively, Officer C could have maintained his/her position as the less-lethal force officer to reduce the potential of an unintentional firing or the Subject attempting to grab the Taser.

**Preservation of Evidence** – Officer H retrieved the Subject's discarded pistol with ungloved hands and later placed it in his/her pants pocket. He/she again retrieved it from his/her pants pocket and continued to make physical contact with the pistol with ungloved hands. Officer H is reminded of the importance of not contaminating evidence by donning gloves and not unnecessarily and continuously handling evidence.

**Profanity** – When Officer A initially contacted the Subject, he/she stated, “drop the [expletive] gun from your armpit!” While Officer A’s use of profanity was not excessive or personal and intended to gain compliance, it is not best practice. Officer A is reminded of the importance in maintaining professionalism with the public and the use of profanity can also increase the intensity of an encounter.

**Situational Awareness** – Upon further review of BWV, Officer H adjusted the strap of the 40mm LLL, however it appears that he/she covered his/her hand with the muzzle. According to investigators, it was determined to be inconclusive. Officer H is reminded of the importance of maintaining safety discipline while handling weapon systems.

**40mm LLL Protocols** – After discharging a foam round from his/her 40mm LLL, Officer H did not reload the launcher. Alternatively, Officer H could have loaded an additional foam round into the chamber of his/her 40mm LLL in preparation to fire a second round should it be necessary.

### **Command and Control**

Officer D handled communications during the incident and requested a backup and air unit for a “415 female with a firearm.” He/she continued to broadcast pertinent information as the incident unfolded. Officer A directed the arriving officers and discussed a plan. Officer A provided continuous communication and guidance to other officers in response to the Subject’s actions as the officers followed her in their police vehicles.

After the OIS, Officer A broadcast a “shots fired, help call.” At approximately 09:32 hours, Officers C and D entered the laundromat, followed by Officers A, B, E, F, and G. Officers A and D directed the evacuation of patrons and formulated a plan to take the Subject into custody. Officers A and D coordinated the officers to form two arrest teams for containment and clearing the location. Officer D established an arrest team and roles, while Officer A took the role of communications with the Subject. Following the designation of roles, the officers approached the Subject and took her into custody without incident.

At approximately 0932 hours, Sergeant A responded from the station. He/she was the first supervisor to arrive on scene and declared himself/herself Incident Commander (IC). Sergeant B arrived shortly thereafter and broadcast they were both at scene. Sergeant A verified that an officer-involved shooting (OIS) had occurred, identified some of the involved officers, and directed Sergeant B to separate, monitor, and obtain a PSS from Officer F.

Furthermore, Sergeant A directed officers, including Officer E, to establish a crime scene and canvas the surrounding area for witnesses. Due to Officer E being involved as a witness, Officer E utilized another officer to handle that responsibility and remained with Sergeant B. According to Sergeant A, he/she directed Officer E to secure the OIS area even though he/she was advised of Officer E’s involvement because Officer E had the most situational awareness of exactly where the OIS had occurred.

Sergeant B separated Officers E and F and initiated monitoring protocols. Because he/she initially had both officers, Sergeant B handed a list of PSS questions to Officer F and had him/her fill it out himself/herself. Sergeant B advised he/she did not provide the completed statement to Sergeant A because the information was already known to him/her. Sergeant B relinquished the monitoring duties of Officer E to Sergeant C.

Prior to Sergeant B's arrival at the OIS scene, investigators noted concerns about his/her response time and actions prior to responding to the call. The BOPC noted that the Department had addressed these concerns.

At 0949 hours, Lieutenant A, notified the Department Operations Center (DOC), arrived on scene, and established a command post.

The BOPC noted that the UOFRB assessed the response of supervisors to this incident. Sergeant A declared himself/herself as incident commander (IC) and attempted to gain situational awareness upon his/her arrival. The UOFRB also noted that Sergeant A quickly advised the officers at scene not to discuss the incident as he/she began identifying the involved officers and areas that had to be secured. The UOFRB would have preferred that upon being notified of Officer E's involvement, Sergeant A had obtained Officer E's PSS and delegated the task of securing the area to non-involved personnel. Although there were some areas identified for improvement, the UOFRB believed that those issues would be best addressed with training.

The UOFRB assessed Sergeant B's monitoring and separation of Officer F from the other officers. The UOFRB would have preferred Sergeant B to complete the PSS himself/herself and relay that information to Sergeant A to assist him/her in preserving the OIS scene and locating witnessing and involved officers. The UOFRB considered Sergeant B's review of his/her BWV and noted that he/she had arrived post-incident; however, Sergeant B's delay in responding to this incident concerned the UOFRB.

The BOPC determined that the overall actions of Sergeants A, C, and Lieutenant A were consistent with Department training and expectations of supervisors during a critical incident. The BOPC also determined that the overall actions of Sergeant B were not consistent with Department training and the expectations of a supervisor during a critical incident.

## **B. Drawing/Exhibiting**

### **Officer A**

Officer A unholstered his/her pistol based off the comments of the call, witness statements, and seeing the Subject holding the pistol in her hand. Officer A believed that the situation could have led to serious bodily injury as he/she was trying to protect himself/herself and his/her partner from the threat.

## **Officer C**

Officer C exited his/her police vehicle and observed the Subject holding a pistol in her hand at her side. Officer C unholstered his/her pistol, believing that the tactical situation was going to lead to the point where lethal force may be justified.

## **Officer D (1<sup>st</sup> Occurrence)**

As Officer D and his/her partner drove their police vehicle through the restaurant “drive through,” he/she stated that there were blind spots where he/she believed that the Subject may have been secreted. Additionally, a witness advised them that he/she observed the Subject with a pistol. Based on Officer D’s belief that the Subject was armed and still in the area, and the situation could rise to a level of lethal force, Officer D unholstered his/her pistol inside the police vehicle.

## **Officer D (2<sup>nd</sup> Occurrence)**

Officer D and his/her partner Officer C exited their police vehicle and followed the Subject into the laundromat. Officer D unholstered his/her pistol based on the tactical situation that the Subject may still be armed with additional weapons that may cause serious bodily injury to himself/herself and his/her partner. Officer D holstered his/her pistol once Officer H was identified as the designated cover officer (DCO).

## **Officer F**

Officer F observed the Subject holding a black pistol in her hand as she refused to comply with commands to “drop the gun.” Believing that it was a lethal force situation, Officer F unholstered his/her pistol due to the Subject’s refusal to comply with his/her commands to “drop the gun.”

## **Officer H (1<sup>st</sup> Occurrence)**

Officer H stated that the Subject was now armed with a pistol and had already pointed it in the officers’ direction. Officer H believed that the situation had escalated to a point where lethal force may be justified. Officer H slung his/her 40mm LLL and unholstered his/her pistol. Officer H holstered his/her pistol prior to recovering the Subject’s pistol.

## **Officer H (2<sup>nd</sup> Occurrence)**

After retrieving the Subject’s discarded pistol from the street, Officer H unholstered his/her pistol a second time. According to Officer H, he/she observed the Subject continue traveling westbound. Officer H believed that the tactical situation may escalate where lethal force may be justified, and that the Subject may still be armed with a second pistol as she had not yet been searched. Officer H holstered his/her pistol as he/she followed the Subject to the laundromat.

### **Officer H (3<sup>rd</sup> Occurrence)**

As Officer H entered the laundromat, he/she unholstered his/her pistol as he/she advised Officers C and D that he/she was going to take the role of DCO in the arrest team. Officer H stated that because the Subject was refusing to comply, had not yet been searched, and had already been armed with one pistol, he/she had reason to believe that she still may be armed with another weapon. Officer H holstered his/her pistol once the Subject was placed into custody.

The BOPC noted that the UOFRB assessed Officers A, C, D, F, and H's first drawing and exhibiting of their pistols. The UOFRB considered the comments of the radio call of the Subject waving a pistol as well as the officers' observations leading up to their initial contact with the Subject as she was armed with a pistol. Furthermore, the officers gave multiple commands to the Subject to "drop the gun" to which she refused to comply. Given these circumstances, the UOFRB concluded that it was reasonable for Officers A, D, F, and H to draw and exhibit their pistols and that their actions conformed to policy.

The UOFRB also assessed Officers H's second and third, and Officer D's second drawing and exhibiting of their pistols. The UOFRB noted that although the Subject had discarded her pistol, she had fled and was not searched. The UOFRB also considered the Subject's erratic behavior, unwillingness to comply with commands, and that she had entered a busy laundromat with numerous patrons.

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

### **C. Less-Lethal Use of Force**

**Officer B** – 40mm LLL, one foam round from approximately 33 feet.

According to the investigation, the officers were concerned for the community's safety. They agreed that Officer B, equipped with a 40mm LLL, was designated as the less-lethal force officer. At 0929:40 hours, Officer A advised Officers E and F that his/her partner (Officer B) would utilize the 40mm LLL when the opportunity presented itself.

According to Officer B, as the Subject traveled west, there were people at a bus stop. Officer F stated that Officer A was the DCO, while he/she deployed the 40mm LLL. As Officers followed the Subject from their police vehicle, Officer B stated that the Subject was "flagging" their police vehicle with what appeared to be a real pistol. Officer A directed Officer B to fire the 40mm LLL at the Subject if the opportunity was available. At 0930:03 hours, Officer A stopped his/her vehicle and directed Officer B to fire a 40mm LLL foam round at the Subject. Officer B stepped out of the police vehicle with the 40mm LLL and gave multiple commands to the Subject to "drop it." Officer B stated that the Subject turned her hips while pointing her pistol. Officer B

aimed at the Subject's belt line and fired one foam round, striking the Subject on her left buttock.

**Officer H** – 40mm LLL, one foam round from approximately 49 feet.

According to Officer H, he/she observed the Subject with a pistol tucked underneath her armpit, grabbed the pistol, and pointed it toward the officers. Officer H heard two "pops" and believed that there was an immediate threat of violence and danger to the public as the Subject walked away with the pistol in her hand. Officer H aimed the 40mm LLL at the Subject's lower left leg and fired one round, in a northwesterly direction, from approximately 49 feet. Officer H did not know the Subject's pistol was a replica until he/she later recovered it from the street. According to the investigation, the foam round struck the Subject on her left buttock.

The BOPC noted that the UOFRB assessed Officers B and H's use of less-lethal use of force. The UOFRB noted that despite repeated commands to "drop the gun," the Subject refused to comply. The UOFRB discussed Officer B's multiple efforts in giving commands to the Subject to, "drop it," but the Subject refused and turned toward the officers. The UOFRB opined that the Subject posed an immediate threat of danger towards the officers and that the officers needed to take immediate action.

The UOFRB noted Officer H's statements as he/she observed the Subject grab a pistol from her armpit and point it in the officers' direction. Moreover, the UOFRB discussed despite already hearing two rounds being fired, the Subject was observed by Officer H to still be armed with a pistol pointed towards the officers. The UOFRB noted that Officer H was unaware that the Subject's pistol was a replica until he/she later recovered it. The UOFRB opined that Officer H was concerned with the safety of the community as the Subject posed an immediate threat of violence.

Based on the Subject's actions of waving a pistol and erratic/aggressive demeanor, the UOFRB determined that the Subject posed an immediate threat to the community and the safety of the officers. The UOFRB further noted the officers' lengthy de-escalation efforts while following her.

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

#### **D. Lethal Use of Force**

**Officer F** – Pistol, one bullet round in a northwesterly direction from approximately 45 feet.

According to the investigation, Officer F was positioned to the left of Officer A, who was driving the police vehicle next to him/her. Officer F stated that he/she assumed the role of DCO since Officer B deployed the 40mm LLL. Officer F stated that officers at scene gave numerous commands to the Subject to "drop the gun."

According to Officer F, as the Subject continued to run, there was a moment when the Subject turned and faced him/her and his/her partner with the pistol held in her hand, as her arm moved in a motion towards the officers. Officer F feared for his/her safety, as well as the safety of his/her partner and believed that there was no other option when the Subject pointed the pistol towards them. In response, Officer F aimed his/her pistol at the Subject's upper body, using a two-hand shooting stance, and fired one round. Officer F stated that the Subject turned away, continued to run from the officers, and was no longer pointing the pistol at them.

Officer F believed that his/her round struck the Subject; however, the investigation established that the round did not strike the Subject.

The BOPC noted that the UOFRB considered the available evidence, including Officer F's statements, his/her BWV, responding units' DICV, and surveillance video when assessing his/her lethal use of force. The UOFRB considered the Subject's actions of waving a pistol and pointing it toward the officers, the considerable de-escalation efforts by officers, and the Subject's refusal to comply. The UOFRB viewed surveillance video of the Subject running along the sidewalk and turning and pointing her pistol in the direction of officers.

The UOFRB also discussed that the Subject's Airsoft pistol appeared to be authentic and, if fired, could produce significant injury. The UOFRB noted Officer F's statement that he/she was fearful for his/her life, as well as his/her partners, as the Subject's arm was moving in a motion upwards towards them. The UOFRB opined that with all evidence and statements considered, it was reasonable for Officer F to perceive an imminent threat of serious bodily injury.

The UOFRB assessed Officer F's background at the time he/she fired a round from his/her pistol and noted that the investigation confirmed that no one was in Officer F's background as the round struck the exterior surface of the a residence.

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