

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

OFFICER-INVOLVED SHOOTING – 017-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Rampart	5/17/22		
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Officer(s) Involved in Use of Force	Length of Service
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Officer E	10 Years
Officer F	4 years, 8 months
Officer H	5 years, 5 months

Reason for Police Contact

Officers were surveilling an Assault with a Deadly Weapon (ADW) suspect (the Subject), who was also wanted on a fugitive warrant. The surveillance team observed the Subject leave a residence in his vehicle and officers attempted a traffic stop. The Subject fled in his vehicle and, while driving into opposite lanes of traffic, became involved in a head-on collision. Then the Subject brandished a pistol and carjacked an Uber driver who was carrying two passengers. The Subject then fled in the stolen vehicle while being pursued by responding officers. During the pursuit, the Subject was involved in a second collision, causing the stolen vehicle to be disabled. The Subject exited the vehicle with the pistol, resulting in an officer-involved shooting (OIS). The Subject then fled on foot armed with the pistol and entered the courtyard of an apartment complex, where he was contacted by officers and a second OIS occurred. The Subject was not struck by gunfire and was subsequently taken into custody without further incident.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Subject: Male, 43 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force (CUOF) incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent Subject criminal history, and addenda items); the relevant Training Evaluation and Management

System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on April 4, 2023.

Incident Summary

On May 17, 2022, at approximately 1000 hours, an officer drove by a residential address and observed the Subject's Honda Pilot parked in the driveway. At approximately 1340 hours, a surveillance team observed the Subject exit the residence, enter the Honda Pilot, and drive away. The surveillance units advised a uniformed "chase" unit that the Subject was on the move. Police Officers A and B followed behind the Honda Pilot. The officers were in a marked black and white Ford Explorer police vehicle.

At 1345:02 hours, Officer B broadcast the following: *"[S]how me code six on a two eleven suspect on [location]. Requesting a backup, air unit and supervisor.* As the Subject's drove his vehicle into a parking lot, Officer A pulled their police vehicle directly it facing south, activated their forward-facing red lights, and commanded the Subject to exit his vehicle.

Note: Officers A and B both unholstered their firearms while ordering the Subject out of the vehicle because the Subject was an armed robbery suspect.

An LAPD helicopter air unit responded to the backup call. As Officers A and B were attempting to get the Subject to exit his/her vehicle, the Subject reversed his/her vehicle and drove out of the parking lot.

As the Subject drove away, he veered into opposing traffic lanes and struck an occupied vehicle. The Subject then exited the Honda Pilot, brandished a pistol, and ran in the street. The Subject was seen running past a Kia Forte before successfully carjacking a black Lexus. He then fled in the stolen Lexus.

Note: Victim A stated that on May 17, 2022, he was seated in the driver's seat of his 2019 Kia Forte when he observed the Subject exit the Honda Pilot and remove a pistol from his waistband. The Subject pointed the pistol at him as officers were simultaneously approaching. Believing that he was going to be shot, Victim A exited his vehicle and threw himself onto the ground. The Subject did not approach Victim A.

Victim B stated that on May 17, 2022, he was employed as an Uber driver and driving a black Lexus. He had two passengers in the backseat when

he heard what sounded like an accident. He was stopped when he observed the Subject approach his driver's side pointing a pistol at him with two hands. The Subject then told him to get out of the car while continuously pointing the pistol at his head. Victim B opened his door and got out of the vehicle along with the two passengers in the backseat. He observed the Subject get in the driver's seat of his vehicle and drive away.

At 1347:50 hours, Police Officers C and D were responding to the backup request when they observed the Subject's stolen vehicle (the black Lexus). The officers were in a marked black and white Ford Explorer police vehicle.

Officer D advised Communications Division (CD) that they were in pursuit of the stolen vehicle.

Note: According to Officer D, he/she advised CD that he/she and his/her partner were the primary unit in the pursuit.

Police Officers E and F were directly behind Officer D and became the secondary unit in the pursuit. The officers were in a marked black and white Ford Explorer police vehicle.

Note: Officer D advised CD that he/she needed three additional units and a supervisor in the vehicle pursuit. According to Officer D, he/she wanted to make sure that he/she had enough personnel to set up a perimeter at the termination of the pursuit in the event the Subject attempt to flee.

At 1348:46 hours, as the Subject was entering the 101 Freeway, Police Officers G and H joined the pursuit as the third unit. The officers were in a marked black and white Dodge Charger police vehicle.

At 1349:38 hours, the Subject exited the 101 Freeway. Police Officers I and J joined in the pursuit as the fourth unit. The officers were in a marked black and white Ford Explorer police vehicle.

At 1350:26 hours, the Subject drove through a mid-phase red light, where he was subsequently involved in a second traffic collision. The impact of the collision activated the airbags in the Subject's stolen vehicle and caused an extensive amount of damage to the driver's door. The Subject's vehicle slowly rolled forward until it collided with the front end of a silver Honda Pilot, parked on the east curb of the street.

Approximately 14 seconds later, the Subject exited the passenger's side door of his vehicle. The Subject faced the officers, placed his left foot on the pavement exposing the front and left side of his body, while keeping his right foot and right arm concealed inside the passenger compartment.

Officer C positioned the middle of his/her police vehicle on the right rear side of the Subject's vehicle. Both Officers C and D exited their police vehicle and unholstered their pistols.

Officer E positioned his/her police vehicle directly behind Officers C and D's police vehicle. Officers E and F unholstered their pistols, moved forward, and took cover behind the driver and passenger side doors of their police vehicle.

Officer G positioned his/her vehicle to the right side of Officers C and D's vehicle, angled toward the Subject's position. Officer G exited the driver's side door, unholstered his/her pistol, and took a position of cover behind the driver's door panel. Officer H exited the passenger's side door of his/her vehicle, unholstered his/her pistol and took a position of cover behind his/her passenger's side door.

Officer I positioned his/her police vehicle to the rear, behind Officers E and F's vehicle. Officer I moved forward, unholstered his/her pistol, and took a position of cover behind the driver's side door of Officers C and D's vehicle. Officer I positioned him/herself between Officers C and E. Officer J moved forward, unholstered his/her pistol, and positioned him/herself behind Officers D and F.

Officers gave the Subject several commands to put his hands up; however, he did not comply. Seconds later, Officer H observed the Subject holding a pistol and gave the Subject commands to drop the pistol, as well as notified the other officers at scene of his/her observations. But the Subject failed to do so.

At 1350:52 hours, the Subject completely exited his vehicle while holding the pistol in his right hand pointed in the direction of his passenger's front seat.

Note: Officers gave commands to the Subject for approximately 12 seconds before he completely exited his vehicle holding the pistol.

As the Subject exited the vehicle with the pistol, Officer H fired six pistol rounds at a standing position from approximately 30 feet.

Officer F fired one pistol round at a standing position from approximately 25 feet.

Officer E fired one pistol round at a standing position from approximately 25 feet.

Note: Based upon review of body-worn video (BWV), it was determined that Officer H began firing prior to Officers E and F.

As the Subject began to run from his vehicle, Officer D called out, "*cease fire, cease fire, come on foot pursuit,*" as the officers foot pursued the Subject.

After a brief foot pursuit, the Subject ran into the courtyard of an apartment complex. As Officer H entered the complex's courtyard, he/she unholstered his/her pistol prior to

rounding a blind corner. Officer F was directly behind Officer H and entered the courtyard as he/she unholstered his/her pistol. As Officer H rounded the corner, he/she observed the Subject pointing the pistol at him/her with his right hand.

Officer H fired one pistol round at a standing position from approximately 40 feet. Officer H then observed the pistol fly out of the Subject's hand as he fell to the ground. Officer H provided cover for Officer F, who holstered his/her pistol prior to handcuffing the Subject. After taking the Subject into custody, Officer F conducted a pat-down search.

The Subject was not struck by gunfire.

Officer E deployed to the driver's door of Officers C and D's vehicle and took a position of cover behind the driver's door. Officer E positioned him/herself to the right of Officers C (far left) and I (immediate left). Officer E could see that the Subject had exited his vehicle displaying only half of his body.

According to Officer E, he/she observed the Subject remove a pistol from the right side of his body and point it in his/her (Officer E's) direction. Officer E fired one pistol round at a standing position from approximately 25 feet.

Note: According to Officer E, he/she was aiming at the Subject's center body mass at the time he/she fired his/her one round.

Officer BWV camera was facing westward at the time of the OIS and did not capture the moment that he/she fired his/her round. However, Officer C's BWV captured Officer E's actions during the OIS.

After firing his/her round, Officer E joined in the foot pursuit of the Subject as he ran from his vehicle still armed with the pistol.

Note: According to Officer E, he/she was in containment mode throughout the foot pursuit. After observing the Subject run into the courtyard of the apartment complex, Officer E slowed down his/her pursuit of him. Officer E noted he/she remained in containment mode in order to set up a perimeter.

Officer F deployed to the passenger's door of Officers C and D's vehicle, to the left of Officer D. Officer F could see the Subject exit the passenger's side door of his vehicle with his right hand concealed behind the front passenger's seat. According to Officer F, *"At that moment he takes a sidestep to the left, and I observed what I recall to be a semi-auto with a black slide and a tan frame."*

Officer F fired one pistol round at a standing position from approximately 25 feet.

Note: According to Officer F, at the time he/she fired his/her round, he/she was aiming at the Subject's chest and stomach area. His/her background was a large building with a concrete wall, and he/she was not aware of anyone other than the Subject in front of him.

Officer F indicated that, after firing his/her pistol, he/she observed the Subject start to run away from the officers. Officer F holstered his/her firearm and pursued the Subject.

Officer F pursued the Subject, with Officer H running directly in front of him/her. As they entered the apartment complex courtyard, he/she unholstered his/her firearm and took a position behind Officer H. Officer F observed the Subject turn in their direction as Officer H fired one pistol round. The Subject then fell to the ground, and they later took the Subject into custody.

Note: After Officer F unholstered his/her pistol, he/she discovered that the slide on his/her pistol was locked to the rear. While approaching the Subject, Officer F struck the bottom of the magazine with his/her left hand, which caused the slide to go forward.

Officer H deployed to passenger's side of his/her vehicle, while utilizing his/her door as cover. According to Officer H, he/she observed the Subject exit the vehicle holding something in his right hand. The Subject was halfway in the car and was ignoring officers' commands to put his hands up. Officer H stated, *"I left my cover a little bit thinking that he was going to take off running. At that point when I left cover, I saw that he was holding a handgun in his right hand that he was concealing from us, like, halfway into the car and halfway out."* Officer H announced, *"He has a gun, he has a gun!"*

Officer H fired six pistol rounds at a standing position from approximately 30 feet.

According to Officer H, when asked if there was anyone in his/her background during the first OIS, *"No, like I said, there was a parked vehicle that he/she TC'd and when we went at scene I -- I saw the vehicle and it looked empty to me like nobody was behind there."*

Note: According to Officer H, he/she was aiming at the center body mass of the Subject when he/she fired all six rounds.

Note: Officer D told Force Investigation Division (FID) that he/she saw the Subject holding a pistol pointed *"towards the sky."* According to Officer D, *"I went to a finger on the trigger, sights aligned, and I was waiting for him to make a movement, either to point the gun at us or at me and my partner, and he didn't."*

The following are Officer H's actions during the second OIS.

After firing his/her sixth round, Officer H holstered his/her pistol and foot pursued the Subject.

The Subject ran into the courtyard of the apartment complex, then turned the corner continuing down the south side walkway. Fearing a possible ambush, Officer H deliberately slowed down his/her pursuit before rounding the same corner. Officer H unholstered his/her pistol prior to rounding the corner. As Officer H continued west down the walkway, he/she observed the Subject hunched down, facing him, while holding his pistol in his right hand. Officer H observed that the Subject had his right hand extended out and was pointing the pistol in his/her direction. Officer H estimated the Subject was approximately 35 feet away from him/her at this time.

Officer H fired one pistol round at a standing position from approximately 40 feet. Officer H aimed at the Subject's center mass area. After firing, Officer H observed the Subject fall to the ground as if he had been struck by gunfire.

The Subject was not struck by gunfire during the first or second OIS. According to the Subject, he only remembered an officer shot at him during the second OIS.

Following the second OIS, the Subject was then handcuffed and taken into custody without further incident. The Subject's handgun was recovered at the scene.

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

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer 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 G	Yes	Yes	Yes	Yes	Yes
Officer H	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' (BOPC) Findings

The BOPC reviews each 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. For every incident, the BOPC makes specific findings in three areas: tactics of the involved officer(s); drawing/exhibiting of a firearm by any involved officer(s); and the use of force by any involved officer(s). Based on the BOPC's review of the incident, the BOPC made the following findings:

A. Tactics

The BOPC found the tactics of Officer G to warrant a finding of Tactical Debrief. The BOPC found the tactics of Officers C, D, E, F, and H to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer H's pistol round seven to be In Policy. The BOPC found Officers E, F, and H's pistol rounds one through six to be Out of 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.

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 Officers 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, suspects, persons in custody, suspects 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 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 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 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 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.

Planning – Officers G and H worked together consistently for the past four years and have had tactical discussions including contact/cover roles, driver and passenger duties, and lethal and less-lethal force options. They also regularly debriefed radio calls. Officers E and F had worked together on one prior occasion, during which they had tactical discussions including contact/cover roles, flexibility, tactical communication and planning, active shooters, armed suspects, foot pursuits, vehicle pursuits, K9 callouts, and hostage situations. Officers C and D are both experienced Field Training Officers who have worked together on three prior

occasions and have had prior tactical discussions including contact/cover roles, weapon systems, tactical planning, lethal force, less-lethal force, and armed suspects. The above officers responded to a backup request of an attempted robbery suspect, which escalated to a carjacking incident. During the vehicle pursuit, Officer D advised CD that he/she needed three additional units and a supervisor in the pursuit. According to Officer D, he/she wanted to ensure that he/she had sufficient personnel to set up a perimeter if the Subject attempted to flee on foot when the vehicle pursuit terminated.

Assessment – When the Subject canted his body while standing outside of the Lexus, Officer G saw that he was armed with a pistol. In response, Officer G raised his/her service pistol but kept his/her finger on the frame. When Officer G observed the Subject face him/her and his/her partners while holding the pistol, he/she placed his/her finger on the trigger of his/her service pistol, intending to shoot. However, he/she noticed a female inside a parked vehicle behind the Subject and immediately took his/her finger off the trigger without using lethal force. Based on the available evidence, the BOPC determined that Officer G's finger was momentarily on the trigger and his/her actions did not deviate from Department-approved tactical training. This was in contrast to Officers C, D, and E, as discussed in Debriefing Point No. 3.

As the Subject fled on foot, Officer D assessed the possibility of a crossfire situation and directed the officers to cease fire. Officer D also assessed that the Subject was a threat to the community and directed the officers to pursue him on foot.

Time – There is a formula that saves lives, distance plus cover equals time. At the termination of the vehicle pursuit, officers positioned their police vehicles behind the Lexus. They exited their vehicles, unholstered their service pistols, and issued commands from behind the ballistic door panels. As discussed in Debriefing Point No. 1, Officers D and C moved away from cover before the OIS.

Redeployment and/or Containment – Before the first OIS, Officer H momentarily left cover because he/she believed that the Subject was going to flee on foot. Observing that the Subject had a pistol, Officer H immediately redeployed back behind his/her ballistic door panel. After the first OIS, the Subject fled to an apartment complex. To contain him, Officers D, G, I, and J positioned themselves one property south of the complex as Officers C and E positioned themselves on the north side of the apartment building. As discussed in Debriefing Point No. 2, Officers F and H followed behind the Subject in apprehension mode.

Other Resources – Officer D advised CD that he/she needed three additional units and a supervisor in the vehicle pursuit. Due to the initial backup request, an air unit was over the incident when the vehicle pursuit began. After the first OIS, the air unit broadcast a shots-fired help call, resulting in multiple units responding to the scene.

Lines of Communication – Officers C and D located the Subject fleeing in the Lexus and communicated that they were the primary unit in the pursuit. They also

requested the air unit to take over broadcasting. During the vehicle pursuit, Officer D broadcast that the Subject was reaching down in the front passenger compartment. At the termination of the pursuit, officers gave the Subject several commands to put his hands up, but he did not comply. Seconds later, Officer H observed the Subject holding a pistol and ordered him to drop it, but he failed to do so. Officer H also advised his/her partners that the Subject was armed. As the Subject ran south on Union Avenue, Officer D called out, "*Cease fire, cease fire, come on, foot pursuit!*" As noted above, Officer D wanted to avoid crossfire and/or "*an officer getting shot.*" After the second OIS, Officer C called out, "*blue, blue, blue,*" to avoid crossfire as he/she and Officer E approached Officers H and F from the west.

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

Debriefing Point No. 1 Cover and Concealment

At the termination of the pursuit, Officers C and D exited their police vehicle, unholstered their service pistols, and stepped away from their respective ballistic door panels, as officers issued commands to the Subject. When the OIS occurred, neither officer had the benefit of cover. According to Officer D, he/she "*stepped out*" a little bit so that he/she could have a clear and unobstructed view of the Subject. Officer D opined the vehicle door was partially covering the left half of his/her torso, leaving him the ability to quickly step back to use it as cover if necessary. Officer D also stated that due to his/her short height, if he/she had to discharge his/her service pistol, he/she would have been unable to extend his/her arms over the top of the police vehicle's door frame. According to Officer C, he/she stepped away from the driver's door, but opined he/she was still using part of it as cover.

The BOPC noted that the UOFRB assessed Officers C and D's decision to leave cover during a high-risk vehicle stop of an armed suspect. The UOFRB noted that while both officers knew the Subject had carjacked a vehicle and was armed with a pistol, they chose to leave cover at the pursuit's termination. The UOFRB also noted that the Subject was not complying with the officers' commands. Although Officers C and D believed that they were using a portion of their respective doors as cover, based on the BWV and surveillance video footage, the UOFRB opined that when the OIS occurred, neither officer had the benefit of cover. While the UOFRB considered the officers' explanation for moving away from cover, the UOFRB opined that by doing so, they unnecessarily risked their safety and placed themselves at a significant tactical disadvantage.

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

Debriefing Point No. 2 Apprehension vs. Containment

After the first OIS, the Subject fled while armed with a pistol. Officers F and H pursued the Subject on foot in apprehension mode. When the Subject fled through the courtyard of an apartment complex, Officers F and H continued to pursue him without the benefit of, or using, cover. According to Officer H, he/she was in apprehension mode because the Subject was still out in the open with a pistol. The Subject had already committed a carjacking and was now fleeing. Officer H stated that his/her understanding of containment mode was, if the suspect were to enter a building or vehicle and barricade themselves, then it would be a containment and officers would establish a perimeter. According to Officer F, he/she followed the Subject in apprehension mode, believing he was armed with a pistol, intending to catch up to and take him into custody.

The BOPC noted that the UOFRB assessed Officers F and H's tactics while foot pursuing the Subject. The UOFRB noted that the Subject was an armed suspect who had already carjacked a vehicle and fled from police. The UOFRB also noted that Officers F and H's concern for the safety of the community members in the area. Still, the UOFRB was critical of Officers F and H's decision to follow the Subject into the apartment complex in apprehension mode, noting that they appeared to hastily turn the southeast corner of the building after losing sight of the Subject. The UOFRB opined that the officers should have cleared the corner and or held there while working with other officers to contain the Subject. The UOFRB also noted that instead of seeking cover, Officers F and H continued to run toward the Subject. As they did so, Officers F and H did not have the benefit of cover. The UOFRB opined that by failing to clear the corner and continuing to pursue the Subject in apprehension mode without the benefit of cover, Officers F and H unnecessarily risked their safety and placed themselves at a significant tactical disadvantage.

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

Debriefing Point No. 3 Firearm Safety

According to Officers C and D, they placed their fingers on the triggers of their service pistols but did not discharge a round. According to BWV footage, Officer E placed his/her finger on the trigger of his/her service pistol, where it remained for approximately nine seconds before discharging a round. After the first OIS, Officer E foot pursued the Subject while holding his/her service pistol.

According to Officer D, he/she observed that the Subject had a pistol. As the Subject was exiting the Lexus, Officer D came up on target and placed his/her finger on the trigger of his/her service pistol. Officer D did so, believing that the Subject was going to point the pistol at him or the other officers. Officer D waited for the Subject to "*make a movement,*" pointing his handgun at Officer D or his/her partners;

however, he did not. According to Officer C, when the Subject stepped away from the Lexus' passenger door, he was holding a pistol in his right hand. This caused Officer C to place his/her finger on the trigger of his/her service pistol. When asked why he/she did not shoot, Officer C stated that based on where he/she (Officer C) was, he/she did not see an immediate threat.

The BOPC noted that the UOFRB assessed Officers C, D, and E's adherence to the basic firearm safety rules. As it pertains to Officer D, the UOFRB noted that when he/she placed his/her finger on the trigger of his/her service pistol, he/she was waiting for the Subject to "*make a movement*," before discharging a round. Regarding Officer C, the UOFRB noted that when he/she placed his/her finger on the trigger of his/her service pistol, he/she had observed that the Subject was armed but did not shoot because he/she did not see an immediate threat from the Subject. As such, the UOFRB opined that when Officers D and C placed their fingers on the triggers of their service pistols, they did not intend to shoot.

Concerning Officer E, although he/she ultimately discharged a round, the UOFRB noted that he/she placed his/her finger on the trigger of his/her service pistol approximately nine seconds before firing. As Officer E explained that he/she discharged his/her round when the Subject pointed the gun at him, the UOFRB opined that Officer E did not intend to shoot when he/she placed his/her finger on the trigger, rather it was a preemptive movement. As it pertains to Officer E's decision to pursue the Subject while holding his/her service pistol, the UOFRB noted he/she was behind other officers and may have inadvertently covered them with his/her muzzle while running and when he/she raised his/her pistol.

The UOFRB noted that placing a finger on the trigger of a service pistol is generally not a preemptive movement but a fluid motion that occurs when the officer intends to shoot. The UOFRB also noted that by prematurely placing their finger on the trigger, and/or allowing it to linger as they assess, officers risk unintentionally discharging their service pistols, especially when under stress. While the UOFRB noted the dynamic nature of this incident, they opined that Officers C, D, and E's actions increased their chances of an unintentional discharge and violated the basic firearm safety rules.

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

Debriefing Point No. 4 Required Equipment – TASER

The BOPC noted that the UOFRB assessed Officer E's decision not to carry his/her TASER on his/her person. The UOFRB noted that according to Officer E, the size of his/her waist forces him to wear the TASER in the small of his/her back. Per Officer E, wearing the TASER in this position aggravated preexisting issues with his/her hips and neck. While the UOFRB empathized with Officer E, they noted that

uniformed officers assigned to field duties are required to wear a TASER and there was nothing to indicate that Officer E was granted an exemption from this rule. The UOFRB also noted that officers can wear the TASER in a drop leg holster, freeing space on their duty belts. While it may not have been an effective tool for this incident, the UOFRB opined that by not wearing his/her TASER, Officer E limited the tools readily available to him to de-escalate a situation without the need to resort to greater levels of force. As such, the UOFRB opined that Officer E was required to have his/her TASER on his/her person.

Therefore, based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer E were a substantial deviation, without justification, from Department-approved tactical training.

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

Simultaneous Commands – Before the first OIS, Officers C, D, F, G, and H gave the Subject simultaneous commands.

Profanity – At the termination of the vehicle pursuit, Officer C used profanity while ordering the Subject to drop his/her pistol and get on the ground.

Passing Unsearched Vehicles – After the first OIS, the Subject fled on foot. As Officers C, D, E, F, G, and H foot pursued him, they ran past the Lexus without clearing it. Based on the radio broadcasts which indicated there was only one suspect, officers believed there were no other occupants in the Lexus. Additionally, Officers C and F indicated that they visually cleared the vehicle as they ran past it.

Situational Awareness – While foot pursuing the Subject, Officer F unholstered his/her service pistol as he/she entered the courtyard of the apartment complex. Several seconds later, Officer F discovered that his/her pistol's slide was locked to the rear.

As pistol rounds were being discharged during the first OIS, Officer D began to move forward, ostensibly to pursue the Subject. As Officer D moved forward, Officer F discharged his/her round; Officers D and F were standing near each other.

Background – Officers E, F, and H discharged their service pistols during the first OIS. While they all believed that their background was clear, per the FID investigation, three of the vehicles behind the Subject were occupied.

Protocols Subsequent to a Categorical Use of Force (CUOF) – After the second OIS, Officer F did not immediately notify a supervisor that he/she had discharged his/her service pistol.

Loading Standard – FID investigators determined that at the time of the OIS, the magazine in Officer F's service pistol was short five rounds.

Search of Arrestees – After the second OIS, Officer F conducted a pat-down search of the Subject. Officers K and L took custody of the Subject, placed him in their police vehicle, and transported him to Rampart station. Officers K and L did not search the Subject. The Subject was subsequently transported to the hospital where medical personnel removed his clothing and located a Velcro belt near his groin containing an empty holster and a loaded magazine.

Command and Control

During the vehicle pursuit, Officer D assumed the role of Incident Commander (IC) by assessing the situation and requesting additional units in the pursuit. During the first OIS, he/she instructed officers to cease fire and foot pursue the Subject. During the foot pursuit, he/she coordinated containment. After the Subject was apprehended, Officer D directed any involved officers to return to their vehicles for separation and monitoring and an officer to remain at the scene with the Subject's pistol. He/she also ensured that a rescue ambulance (RA) had been requested for the Subject.

Sergeants A and B arrived at the scene after the Subject was apprehended. Sergeant A declared himself as the IC, identified Officers G and H as involved and separated them, and obtained Officer H's Public Safety Statement (PSS). Sergeant C separated and monitored Officer E and obtained his/her PSS. Sergeant B separated and monitored Officer F and obtained his/her PSS. Lieutenant A, arrived at the scene shortly after Sergeant A. He/she assumed the role of IC and initiated crime scene management.

The BOPC determined that the overall actions of Officer D, Sergeants A, B, C, and Lieutenant A were consistent with Department training.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC determined that Officers C, D, E, F, and H's actions were a substantial deviation, without justification, from Department-approved tactical training. The BOPC also determined that Officer G's actions did not deviate from Department 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 involved personnel to discuss individual actions that took place during this incident.

Drawing/Exhibiting

- **Officer H** - First Occurrence

Officer H believed that the Subject was dangerous, as he was armed with a pistol and had just committed a carjacking. At the termination of the vehicle pursuit,

Officer H observed the Subject exiting the Lexus' passenger side door. Officer H unholstered his/her service pistol because he/she believed that the situation could lead to the point where deadly force may be necessary. After discharging his/her sixth round, Officer H holstered his/her service pistol and chased the Subject on foot.

Officer H - Second Occurrence

According to Officer H, during the foot pursuit, he/she unholstered his/her service pistol before rounding a corner. Officer H was concerned for his/her safety as he/she believed that the Subject was still armed and possibly positioned around the corner.

- **Officer E**

According to Officer E, he/she unholstered his/her service pistol because the Subject was a robbery suspect who had committed a carjacking and was known to be armed and dangerous. For these reasons, Officer E believed the situation could escalate to the point where deadly force may be justified.

- **Officer F - First Occurrence**

Officer F stated that the Subject was a robbery suspect who was believed to be armed and dangerous, and he had just committed a carjacking. Officer F unholstered his/her service pistol because he/she believed that the situation could escalate to the point where deadly force may be justified.

Officer F - Second Occurrence

Officer F stated that he/she unholstered his/her service pistol as he/she rounded a corner while pursuing the Subject on foot with Officer H. Officer F unholstered his/her service pistol because he/she believed that the Subject was still armed with a handgun.

- **Officer D**

Officer D stated he/she unholstered his/her service pistol because the Subject was a robbery suspect who had committed a carjacking and was armed with a pistol.

- **Officer C - First Occurrence**

Officer C stated he/she unholstered his/her service pistol because the Subject was an armed suspect who had committed a carjacking before the vehicle pursuit.

Officer C - Second Occurrence

Officer C stated that during the foot pursuit, he/she unholstered his/her service pistol because he/she believed that the subject was still armed with a pistol.

- **Officer G - First Occurrence**

Officer G stated that he/she was involved in a vehicle pursuit of a carjacking suspect. At the termination of the pursuit, he/she exited his/her vehicle and unholstered his/her service pistol because he/she observed that the Subject had a pistol and he/she believed that the situation could escalate to great bodily injury or death.

Officer G - Second Occurrence

Officer G stated that he/she unholstered his/her pistol a second time because he/she was in foot pursuit of a suspect who was armed with a pistol.

The BOPC noted that the UOFRB assessed Officers C, D, E, F, G, and H's drawing and exhibiting of their service pistols. The UOFRB noted that the officers knew the Subject was a robbery suspect who had committed a carjacking and was armed with a pistol.

The UOFRB also noted that the Subject led officers in a vehicle pursuit and refused to surrender when the pursuit terminated, fleeing on foot while armed with the pistol. Based on the totality of the circumstances, the UOFRB opined that it would have been reasonable for Officers C, D, E, F, G, and H to believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

Lethal Use of Force

- **Officer H – Pistol, seven rounds at two OIS locations.**

First OIS – Six rounds in a southerly direction from approximately 30 feet.

Background – Officer H stated that his/her background was the Subject's vehicle, parked vehicles that the Subject had collided with at the termination of the vehicle pursuit, and an apartment building behind the parked vehicles. Officer H did not believe that there were any pedestrians inside or behind the vehicles. The FID investigation determined there were pedestrians in the background.

According to Officer H, he/she observed the Subject exit the Lexus' passenger door. The Subject stood halfway in the car, faced toward the officers, and ignored their

commands to put his hands up. Officer H observed the Subject holding a pistol in his right hand, and he/she advised the surrounding officers. According to Officer H, the Subject pointed the pistol toward him/her and his/her partners. Officer H feared for his/her safety, as well as the safety of the other officers. In response, Officer H aimed at the center of the Subject's chest and discharged six rounds from his/her service pistol. Officer H indicated that he/she assessed after every round.

Based on the BWV footage, the Subject turned and fled as Officer H discharged his/her rounds.

Second OIS – One round in a westerly direction from approximately 40 feet.

Background – Officer H stated his/her background was a brick wall to his/her left side and a walkway that continued to an alley. Officer H stated that he/she could see past the Subject, the walkway was clear, and there was nobody behind the Subject.

After a brief foot pursuit, the Subject ran into the courtyard of an apartment complex and along the building's south side. According to Officer H, as he/she rounded the southeast corner of the building, he/she observed the Subject pointing the gun at him/her. In response, Officer H discharged one pistol round at the Subject. After firing his/her round, Officer H observed the handgun fly out of the Subject's hand as the Subject fell to the ground.

Before the second OIS, the Subject tried to throw his pistol onto the apartment building's roof, but it bounced back and landed on the ground. The Subject picked up the pistol and the second OIS occurred.

Officer E – Pistol, one round in a southerly direction from approximately 25 feet.

Background – Officer E stated that his/her background was the open passenger door of the Subject's stolen vehicle and the street south of him/her. While Officer E did not observe any pedestrians in his/her background, per the FID investigation, there were pedestrians in the background.

According to Officer E, he/she could see that the Subject had exited the Lexus, but only half of his body was displayed. Officer E stated that the Subject was bobbing and weaving and kind of going up and down and waving his left hand toward the officers. Officer E stated that he/she observed the Subject remove a pistol from the right side of his body and point it in his/her (Officer E's) direction. Officer E stated at that point, he/she was looking through his/her sights, seeing a silhouette. Officer E believed that the Subject was going to shoot at him/her and his/her partners and was in fear for his/her life, the officers' lives, and the safety of a pedestrian in the area. Additionally, Officer E heard a gunshot and believed the Subject had fired at officers. To stop the imminent threat, Officer E discharged one round at the Subject.

Officer F – Pistol, one round in a southerly direction from approximately 25 feet.

Background – Officer F stated that his/her background appeared to be the street and a large apartment building with a concrete wall. He/she was not aware of anyone other than the Subject in front of him. The FID investigation determined there were pedestrians in the background.

According to Officer F, he/she saw the Subject exit the Lexus' front passenger door with his right hand concealed behind the front passenger seat. Officer F stated that when the Subject stepped to the left, he/she was able to observe a pistol in the Subject's hand; the pistol was pointed downward. According to Officer F, the Subject kept looking at him/her, debating whether he (the Subject) should "*do it or not.*" Officer F observed the Subject putting his weight a "*little bit*" down and perceived that to be a shooting stance. For a "*slight*" second, Officer F observed the Subject lifting his right hand as he was looking toward him and Officer D. Believing that the Subject was going to shoot him/her and Officer D, Officer F discharged one round at the Subject.

The BOPC noted that the UOFRB assessed Officers E, H, and F's use of lethal force. As it pertains to the first OIS, while the UOFRB noted the officers' beliefs regarding the Subject's actions with the handgun, they opined the officers' beliefs were not reasonable based on the available evidence. Reviewing the video footage of this incident, the UOFRB noted that as the Subject stood partially outside of the Lexus, his right leg and arm were inside the passenger compartment. As the Subject stepped back from the Lexus, the pistol was in his right hand and the left side of his body was bladed toward the officers. The pistol was pointed away from the officers and toward the floorboard of the Lexus' passenger compartment. As the Subject continued to walk back, the gun remained pointed toward the Lexus. He raised both his hands to about shoulder level, at which point the Subject's muzzle was pointed toward the sky. The Subject then turned to his right, away from the officers, and started to run, at which point the OIS occurred. While the UOFRB understood the tense nature of this incident, based on their review, the UOFRB did not observe actions consistent with the officers' articulated reasons for using lethal force.

In terms of the Subject's position when the first round was discharged, the UOFRB considered the concept of lag time. However, as indicated above, the UOFRB did not observe actions consistent with the officers' beliefs when the OIS occurred. The UOFRB also noted that according to Officer E, he/she heard a gunshot and believed the Subject had fired at officers. While this caused the UOFRB to consider the concept of contagious fire, they noted that Officer E's articulated justification for discharging his/her round included his/her belief that the Subject pointed the gun at him.

Regarding the second OIS, the UOFRB noted that as Officer H rounded the southeast corner of the apartment complex, the Subject tried to throw his pistol onto the roof but it instead appeared to strike the roof's edge. The pistol bounced back and landed on the ground near him. Instead of leaving the pistol where it landed and continuing to flee, the Subject chose to pick it up as Officers F and H were approaching him. According to

Officer H, he/she observed the Subject pointing the pistol at him/her. The UOFRB noted that surveillance video footage depicted the Subject momentarily facing officers while holding the pistol by his waist when the second OIS occurred. Based on the Subject's actions, the UOFRB opined that it was reasonable for Officer H to believe that the Subject was going to shoot him.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers E, F, and H, in the same situation, would not reasonably believe that lethal use of force was proportional, objectively reasonable, or necessary during the first OIS. The BOPC also determined that an officer with similar training and experience as Officer H, in the same situation, would reasonably believe that the use of lethal force was proportional, objectively reasonable, and necessary during the second OIS. Therefore, the BOPC found Officer E, F, and H's lethal use of force during the first OIS to be Out of Policy. The BOPC found Officer H's lethal use of force during the second OIS to be In Policy.