

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

**LAW ENFORCEMENT-RELATED INJURY – 044-20**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Van Nuys	9/24/20		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	22 years, 1 month
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**Reason for Police Contact**

A uniformed Sergeant responded to a “possible Assault with a Deadly Weapon (ADW) suspects” radio call. The Sergeant attempted to detain the two possible ADW suspects and a foot pursuit of Subject 1 ensued. At the termination of the foot pursuit, the Sergeant applied body weight to Subject 1’s lower back. The following day, Subject 1 was admitted to a hospital for treatment of injuries he had sustained.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject 1: Male, 17 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 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 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 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 August 17, 2021.

## **Incident Summary**

Two days prior to this incident, Subject 1, and another male, (Subject 2) robbed Victim A at gunpoint. Victim A was waiting on a street corner when Subject 1 pointed a chrome handgun at his head and demanded his property, while Subject 2 acted as a lookout. In fear for his life, Victim A surrendered his wallet to Subject 1. Subject 1 took Victim A's property and both subjects fled.

Uniformed police officers responded to the area and arrested Subject 2. A perimeter was established and a search for Subject 1 was conducted; however, officers were unable to locate him. A Los Angeles Police Department Investigative Report (IR) was also completed.

On the date of this incident, Witness A (Victim A's sister) observed Subject 1 and another male walking in the street. Witness A called 911 and advised that she was following Subject 1, who had robbed her brother two days prior. Communications Division (CD) generated a radio call of possible Assault with a Deadly Weapon (ADW) suspects. The comments of the radio call provide the subject's description and a summary of the previous robbery. Uniformed Police Officers A and B were dispatched to the radio call.

Uniformed Sergeant A was driving a marked black and white police vehicle. Sergeant A was equipped with Body Worn Video (BWV) and his/her police vehicle was equipped with a Digital In-Car Video System (DICVS).

According to Sergeant A, on the morning of the incident, Day Watch personnel received a briefing during roll call regarding the street robbery involving Victim A. Sergeant A was advised that Subject 2 was taken into custody on the same day of the robbery, and the other suspect (Subject 1) was outstanding. Sergeant A was shown a picture of Subject 1, taken from a surveillance video of a local liquor store.

Sergeant A believed the description of the ADW suspect provided in the radio call was consistent with the description of the robbery suspect provided during roll call. Sergeant A drove to the police station to obtain a copy of Subject 1's picture. Once he/she located a copy of Subject 1's picture, Sergeant A drove toward the area where Witness A was following the possible suspects.

Communications Division updated responding officers that Witness A was following the possible ADW suspects, who were now headed east, near a school.

According to Sergeant A, he/she realized that he/she was going to be the first unit at scene even though approximately 18 minutes had passed since the initial radio call had been broadcast. As Sergeant A arrived in the area, he/she observed Subject 1 and a second individual walking east, on the south side of the street. According to Sergeant A, he/she decided to detain the suspect in the interest of public safety. Sergeant A activated his/her BWV. Sergeant A's DICVS was not activated during this incident.

Sergeant A used the police vehicle's police radio to broadcast his/her status and location. Sergeant A angled his/her police vehicle across the east lanes of traffic, stopped, and placed it in park. As Sergeant A opened his/her driver's side door and began to exit, he/she ordered the Subjects to put their hands up. The Subjects ignored Sergeant A's order to stop and started running west, then south, along the east sidewalk.

Sergeant A stayed in the police vehicle, closed the door, and began following the Subjects. According to Sergeant A, he/she observed Subject 1 place his right hand over his right front pants' pocket as he ran, causing Sergeant A to believe Subject 1 was possibly armed with a gun. Sergeant A then observed Subject 1 use his right hand to remove a pistol from his right front pants pocket. Subject 1 continued running south holding the pistol in his right hand as the other male turned around and ran north.

Sergeant A broadcast that the subjects were running and that Subject 1 had a gun in his right hand.

Sergeant A exited the police vehicle and began running after Subject 1, who continued running south on the east sidewalk. Sergeant A ran in the middle of the street and shouted at Subject 1 to drop the gun. Sergeant A used his/her hand-held radio to update CD and the responding units of his/her location.

Subject 1 ran west along the south side of the street, falling and regaining his footing as he did so, as Sergeant A ran in the middle of the street. As the foot pursuit continued, Sergeant A ordered Subject 1, "Get on the ground bro', it's your only chance."

Based on Sergeant A's BWV, it was determined that Subject 1 was running when he fell and that Sergeant A closed the distance between him/herself and Subject 1. According to Sergeant A, he/she saw Subject 1 look over his shoulder in his/her direction and felt Subject 1 could easily turn around and start shooting at him/her. Sergeant A believed the situation may escalate to one involving the use of deadly force, so he/she unholstered his/her weapon.

Sergeant A's BWV depicted him/her raise his/her pistol, point it in the direction of Subject 1 and state, "Are you gonna do this bro? You want to do it? Get on the ground." Shortly after, Sergeant A broadcast an update regarding his/her location and status. The Watch Commander, Sergeant B, advised CD to upgrade the foot pursuit to a "Help Call."

As depicted on Sergeant A's BWV recording, Subject 1 stumbled forward and fell for a second time, landing on the dirt of a residential front yard. Subject 1 broke the fall with his hands, spun around to his left, and landed on his back. Subject 1 then sat on the dirt. Subject 1 appeared to be breathing heavily. According to Sergeant A, he/she observed Subject 1 throw the gun into the bushes and saw that both of the subject's

hands were empty. Sergeant A approached Subject 1 from the middle of the street, using a parked white van as cover.

Sergeant A acquired a two-handed grip on his/her gun, pointed it at Subject 1, and ordered Subject 1 to get on the ground. Subject 1 complied with Sergeant A's commands and got on his stomach.

As shown on Sergeant A's BWV recording, he/she approached Subject 1, who was lying face-down with his hands out to his sides. Sergeant A placed his/her right knee on Subject 1's mid to lower right back and holstered his/her handgun. Sergeant A reached down with his/her left hand and applied a firm grip on Subject 1's left wrist and guided it behind his back. Sergeant A then used his/her right hand and applied a firm grip to Subject 1's right wrist and brought it toward Subject 1's lower back. As Sergeant A moved Subject 1's right hand behind his back, he/she lifted his/her right knee off Subject 1's back momentarily to get Subject 1's right arm into position to handcuff him. Sergeant A then placed his/her right knee back on Subject 1's right shoulder blade area and handcuffed him. According to Sergeant A, "And then I immediately get up off of him and then I get onto the radio to start sending units to contain the apartment complex where the witness is broadcasting that the suspect - - the second suspect had fled. The - - he seemed like he was - - he seemed okay to me. He didn't seem injured, but he was saying that he couldn't breathe. I was still aware that he was telling me that he was having issues breathing, so I was monitoring him. I was going to stay with him and make sure that nothing - - you know, that he didn't need immediate medical attention. I'm not a doctor, but he seemed like he could stay in that position for a little longer while I got the resources we needed."

Sergeant A broadcast that Subject 1 was in custody. Sergeant A also broadcast the outstanding suspect's description and advised the responding units where to respond. Sergeant A's BWV recording depicted Sergeant A place his/her right hand on Subject 1's left forearm near his elbow and his/her left hand on Subject 1's left bicep and assisted Subject 1 to his feet.

As shown on Sergeant A's BWV, Subject 1 remained on his stomach after being handcuffed for approximately 33 seconds before being stood up.

Uniformed Police Officers C and D arrived at scene. Sergeant A turned Subject 1 over to Officer C, then walked to the bushes where Subject 1 had discarded the gun and verified its location. Officer C then turned Subject 1 over to Officer D, and Sergeant A showed Officer C the location of Subject 1's gun. In the meantime, Officer D had walked Subject 1 to the right front side of his/her police vehicle and searched him. Officer D requested a Rescue Ambulance (RA) for Subject 1.

Officer C then directed Officer D to put gloves on and photograph and recover Subject 1's gun. Officer C walked Subject 1 to a shaded area near the southeast corner of the street to stand by with Subject 1. According to Officer C, while waiting for the RA, Subject 1 told her/him that he was dizzy, so he/she instructed him to sit down on the

curb. Officer C added that Subject 1 asked if he could lay down because he felt like passing out. Officer C then instructed Subject 1 to lay on his side, as Subject 1 was attempting to vomit.

Sergeant A continued directing responding units to the location where the outstanding suspect (Subject 2) was last seen. According to Sergeant A's BWV, Communication Division advised him/her that Witness A was still on the line, and she had last seen the suspect run into a nearby apartment complex.

Sergeant A asked Officer C to remain at scene with Subject 1 as he/she responded to Subject 2's possible location. Officers conducted a search of the area; however, were unable to locate Subject 2.

A Los Angeles Fire Department (LAFD) Rescue Ambulance (RA), staffed with Firefighter/Paramedics arrived at scene and treated Subject 1. Subject 1 was responsive to questions by Firefighter/Paramedics A and B. Subject 1 was treated for left shoulder pain, due to a fall. Subject 1 was placed on a gurney, stabilized, and transported to a local hospital.

According to Officer C, he/she was advised that Subject 1 had a broken left clavicle. Officer C notified Sergeant A of Subject 1's injury. Subject 1 was examined at the hospital and was cleared to be booked.

According to Sergeant A, Officer C advised him/her, via cellular telephone, that Subject 1 had sustained a broken left clavicle; however, Subject 1 was cleared for booking. Sergeant A notified Sergeant B of Subject 1's injuries. According to Sergeant A, Sergeant B contacted the on-call Force Investigation Division Lieutenant and briefed him/her about the incident. The FID Lieutenant advised Sergeant B to complete a Non-Categorical Use of Force (UOF), Level I, report. Sergeant B directed uniformed Sergeant C, to complete a Non-Categorical UOF, Level I, investigation.

After leaving the hospital, Subject 1 was transported the police station by Officers A and B. At the police station, Subject 1 indicated he had used marijuana. Due to Subject 1's admission of marijuana use, he needed to be medically cleared for narcotics ingestion before he could be housed at Juvenile Hall. Subject 1 was transported back to the hospital where he was seen by the ER doctor and medically cleared for booking. Subject 1 was then transported to Juvenile Hall.

The following morning, Subject 1 was again transported to the hospital due to complaints of stomach pain. Subject 1 was seen by a doctor who diagnosed Subject 1 with lacerations to his liver, spleen, and fractured left clavicle, and admitted him to the hospital for treatment.

Based on Subject 1's admission to the hospital, Force Investigation Division initiated a Categorical Use of Force (CUOF) investigation.

## **BWV and DICVS Policy Compliance**

<b>NAME</b>	<b>TIMELY BWV ACTIVATION</b>	<b>FULL 2-MINUTE BUFFER</b>	<b>BWV RECORDING OF ENTIRE INCIDENT</b>	<b>TIMELY DICVS ACTIVATION</b>	<b>DICVS RECORDING OF ENTIRE INCIDENT</b>
Sergeant A	Yes	Yes	Yes	No	No

## **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each Categorical Use of Force 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 Sergeants A's tactics to warrant a finding of Administrative Disapproval.

### **B. Drawing and Exhibiting**

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

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

The BOPC found Sergeant A's non-lethal use of force 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 Subject and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

**Proportionality:** Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the 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 subject;
- Whether the subject was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or subjects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject 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 subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

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



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

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

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

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

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

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

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

## **Definitions**

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

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

**Imminent:** Pursuant to California Penal Code 835a(e)(2), "[A] threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of

future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

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

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

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

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

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

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

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

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

## A. Tactics

### Tactical De-Escalation Techniques

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

*(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his/her 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** – Sergeant A responded to the radio call of the possible ADW suspects. Sergeant A believed the description of the Subjects matched information regarding robbery suspects from two days prior and his/her plan was to obtain the surveillance photograph provided by detectives prior to responding to the radio call. Sergeant A was aware that 18 minutes had passed from when the radio call had been assigned to a patrol unit, to his/her arrival in the general vicinity of the radio call and believed while responding, that resources had already arrived at the radio call. Upon his/her arrival in the area of the radio call, Sergeant A observed the two Subjects and communicated via his/her radio that he/she had located them. Sergeant A observed Subject 1 armed with a handgun and that both Subjects fled on foot in different directions. Sergeant A exited his/her police vehicle and engaged in a foot pursuit of Subject 1 who was armed with a handgun.

The BOPC noted that Sergeant A did not respond to the radio call with haste and planned to obtain the photograph of the subjects for the officers arriving at the radio call in case they needed it to verify if the possible ADW suspects were indeed the robbery suspects from two days prior. The BOPC considered that some time had passed from when the radio call was generated to when Sergeant A arrived in the area of the radio call. However, the BOPC was critical of Sergeant A's tactical plan and his/her decision to attempt to stop what he/she believed were two possible robbery suspects that were potentially armed. Sergeant A explained that he/she engaged in a foot pursuit, in containment mode, of Subject 1 who he/she observed armed with a handgun, based on his/her concern for community members in the area. The BOPC noted that Sergeant A did not attempt to set up a perimeter during the foot pursuit, and eventually closed the distance with Subject 1, who was armed with a handgun, and initiated physical contact to take Subject 1 into custody on his/her own. The BOPC noted that Sergeant A's tactical planning was limited, and that Sergeant A did not anticipate encountering the Subjects and responded to the actions of the Subjects.

**Assessment** – Upon hearing the radio call and the description of the subjects, Sergeant A assessed that the individuals may have been the robbery suspects from two days prior and determined that obtaining the crime flyer shown during roll call would be beneficial. After retrieving the crime flyer and upon his/her arrival in the area of the radio call, Sergeant A assessed the situation and realized that he/she was the first unit to arrive at the scene. Sergeant A observed the Subjects walking east on the south sidewalk. Sergeant A communicated to CD that he/she was Code Six on the two Subjects, assessed the tactical situation and the danger to the community, and attempted to detain the Subjects. Sergeant A observed that the Subjects began to flee on foot south and then observed Subject 1 armed with a handgun. Sergeant A also observed the Subjects begin to flee in separate directions as he/she followed after them in his/her police vehicle. Sergeant A assessed the tactical situation and made the determination to exit his/her police vehicle and to follow Subject 1, who fled south and then west.

As Sergeant A followed Subject 1, he/she kept his/her distance and positioned him/herself in the middle of the street based on his/her assessment that his/her distance and angle of containment allowed him/her to have some form of cover from the parked vehicles along the curb. Sergeant A continued to assess throughout the foot pursuit and broadcast his/her observations of Subject 1 as Subject 1 fell. Sergeant A made an assessment when he/she observed Subject 1 begin to look back in his/her direction and believed that Subject 1 may turn and shoot him/her. Sergeant A, based on his/her assessment, drew his/her service pistol and continued to follow Subject 1. Upon observing Subject 1 stumble, and fall a second time, and discard his handgun in the front yard of a residence, Sergeant A assessed the tactical situation and closed the distance with Subject 1 while utilizing a parked van as cover and commanded Subject 1 to get on the ground. Subject 1 complied with Sergeant A's commands and placed himself on his stomach with his hands out to his sides. Sergeant A assessed the tactical situation and believed that he/she could quickly take Subject 1 into custody and then communicate with responding resources so they could contain and locate the second outstanding suspect.

The BOPC considered Sergeant A's initial assessment of the radio call and proactive decision to first obtain the crime flyer for the robbery suspects. The BOPC noted that Sergeant A's quick observation and assessment that Subject 1 was armed with a handgun; however, the BOPC was critical of Sergeant A's decision to follow after Subject 1 in foot pursuit, as Subject 1 was an armed robbery suspect, and Sergeant A was unaccompanied by a partner. The BOPC considered that Sergeant A was continually assessing the tactical situation; however, they were critical of Sergeant A's tactical decisions including him/her closing distance on an armed suspect and initiating physical contact without the benefit of a partner or additional resources. The BOPC noted that it would have been preferable for Sergeant A to more effectively assess the tactical situation and have attempted to maintain visual contact, set up a perimeter and containment of Subject 1, while utilizing cover more actively in order to minimize the risk to him/herself.

**Time** – Prior to Sergeant A arriving at the scene of the radio call, he/she initially responded to the police station in order to obtain a crime flyer that had a photograph of robbery suspects from two days prior. Sergeant A arrived in the vicinity of the radio call approximately 18 minutes after it was broadcast. Sergeant A attempted to detain the suspects of the radio call, at which time the Subjects fled on foot. As Sergeant A followed the Subjects in his/her police vehicle, he/she observed Subject 1 armed with a handgun continuing to flee south, as Subject 2 fled north. Sergeant A pursued Subject 1 on foot and continued to broadcast Subject 1's actions and his direction of travel to responding resources. Sergeant A eventually closed distance once Subject 1 fell and discarded his handgun. Sergeant A approached Subject 1, initiated physical contact, and took Subject 1 into custody.

The BOPC noted that Sergeant A had initially utilized his/her available time to his/her advantage by obtaining the crime flyer of the robbery suspects, which could verify if the Subjects identified in the radio call were also the robbery suspects. The BOPC noted Sergeant A's explanation for attempting to stop the Subjects while unaccompanied by a partner and without additional resources due to his/her belief of the danger that Subject 1 presented to the surrounding community. However, the majority of the BOPC opined that Sergeant A had sufficient time to request additional resources and maintain visual observations of the Subjects from a distance. The majority of the BOPC was critical of Sergeant A's decision to leave his/her position of cover behind a parked van, approach Subject 1 who was complying with commands, and initiate physical contact to take Subject 1 into custody without the benefit of a partner or additional resources. The BOPC considered Sergeant A's explanation of his/her urgency to move forward and take Subject 1 into custody in order to coordinate the containment of the second suspect; however, the majority of the BOPC opined that Sergeant A had sufficient time to maintain his/her tactically advantageous position and wait for additional resources, who were in close proximity at that time, prior to moving forward and initiating physical contact by him/herself.

**Redeployment and/or Containment** – Upon his/her initiation of the foot pursuit of Subject 1, Sergeant A communicated the direction of travel, and that Subject 1 was armed with a handgun. Sergeant A maintained an approximate distance of 60-80 feet in order to keep visual contact of Subject 1, who Sergeant A believed to be a significant danger to the surrounding community. Sergeant A continued to communicate Subject 1's actions to responding units, specifically that Subject 1 had fallen and then rearmed himself. Sergeant A also communicated his/her updated location and direction of travel. Upon observing Subject 1 fall a second time and discard his handgun, Sergeant A closed distance and determined the best course of action was to quickly take Subject 1 into custody in order to allow for him/her to coordinate the response of additional resources to contain the second outstanding suspect.

The BOPC discussed Sergeant A's foot pursuit in which his/her intention was to follow in "containment mode." The BOPC noted the distance Sergeant A attempted

to maintain from Subject 1, but also considered Sergeant A closing that distance, as he/she observed Subject 1 fall and discard his handgun. The BOPC noted that Sergeant A did not attempt to direct responding resources into containment positions by setting up a perimeter. The majority of the BOPC was critical of Sergeant A's decision to redeploy from the cover of the parked van as Subject 1 complied with commands to lay on his stomach, and instead moved forward to initiate physical contact and take Subject 1 into custody without the benefit of a partner or additional resources.

**Other Resources** – Upon Sergeant A initiating his/her foot pursuit, he/she communicated Subject 1's direction of travel and that he was armed with a handgun. Sergeant A continued to provide updates on Subject 1's actions and his direction of travel as CD broadcast a request for a back-up and an Air Unit, consistent with CD's protocols. At the conclusion of the foot pursuit, Subject 1 was compliant with Sergeant A's commands, and Sergeant A initiated physical contact and quickly took Subject 1 into custody. Additional resources and the Air Unit arrived immediately after Sergeant A had taken Subject 1 into custody. An RA was requested shortly after the arrival of Officers C and D based on what they believed was fatigue from the foot pursuit.

The BOPC noted that Sergeant A maintained constant communication and provided updated directions on Subject 1's movement and actions with the understanding that additional resources would be responding. However, the majority of the BOPC was critical of Sergeant A's urgency to move forward and initiate contact to take Subject 1 into custody on his/her own when he/she had a tactically advantageous position behind a parked van, Subject 1 was complying with commands, and additional resources were in close proximity to his/her location. The majority of the BOPC would have preferred that Sergeant A had utilized the time he/she had to allow additional resources to respond, coordinate the deployment of less-lethal options, and make a coordinated approach to safely and effectively take Subject 1 into custody. The BOPC noted that officers were proactive and requested medical assistance for Subject 1 based on their assessment of his appearance and demeanor.

**Lines of Communication** – Upon his/her arrival in the area of the radio call, Sergeant A established lines of communication with CD and the responding units when he/she communicated that he/she had located the two Subjects, one who was armed with a handgun, and that they were fleeing. Sergeant A attempted to establish lines of communication with Subjects 1 and 2 by telling them to put their hands up when he/she initially attempted to stop them upon his/her arrival; however, the Subjects did not comply. Sergeant A continued to attempt to establish lines of communication with Subject 1 as he/she followed in foot pursuit by telling Subject 1 to "get on the ground bro, it's your only chance." Sergeant A continued to maintain lines of communication with CD and responding units as he/she updated Subject 1's direction of travel and his actions multiple times.

Sergeant A continued to attempt to establish lines of communication with Subject 1 after he/she observed Subject 1 turn and appear to try and acquire him/her as a target. Sergeant A observed Subject 1 fall and discard his handgun in the front dirt area of a residence. Sergeant A, while commanding Subject 1 to get on the ground, utilized multiple instances of profanity to emphasize his/her commands.

Sergeant A maintained lines of communication with CD and additional responding resources to communicate the description and last direction of travel of the second outstanding suspect. Sergeant A coordinated the containment of the building that the second suspect was last seen entering. Sergeant A established lines of communication with Officers C and D, who were the first additional unit to arrive at his/her location and directed them to Subject 1's discarded handgun and had them assume responsibility of Subject 1 as he/she coordinated additional resources.

The BOPC noted Sergeant A's clear tactical communication and his/her updates on Subject 1's direction of travel and actions. The BOPC considered that this incident was fluid and dynamic; however, the BOPC was critical of Sergeant A's attempts to communicate with Subject 1 during the foot pursuit, at the termination of the foot pursuit, and during the handcuffing process. The BOPC noted that the verbiage utilized by Sergeant A during the incident was not consistent with Department policy and not consistent with attempts to de-escalate the incident.

- During its review of this incident, the BOPC noted the following tactical considerations:

- 1. Foot Pursuit Concepts (Apprehension versus Containment, Pursuing Armed Suspects, Running with a Firearm)**

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in foot pursuit of an armed suspect.

As Sergeant A observed Subject 1 and 2 fleeing as well as Subject 1 armed with a handgun, he/she initiated a foot pursuit and stated that he/she was in containment mode. Sergeant A's intention was to maintain his/her distance and wait for additional resources to arrive. Sergeant A drew his/her service pistol while in foot pursuit when he/she observed Subject 1 looking back in his/her direction and believed Subject 1 was intending to acquire him/her as a target. Sergeant A eventually closed distance with Subject 1 after observing Subject 1 fall and discard his handgun.



In this case, the BOPC considered that Sergeant A was not accompanied by a partner and arrived in the vicinity of the radio call approximately 18 minutes after it had been broadcast. The BOPC discussed Sergeant A's response to the police station to obtain a crime flyer of robbery suspects prior to his/her response to the radio call. The BOPC considered the tactical situation was dynamic and increased in intensity, suddenly and without warning. The BOPC noted Sergeant A observed that Subject 1 was armed with a handgun as he fled, and Sergeant A explained his/her concern for the safety of community members. The BOPC noted that Sergeant A maintained communication with CD and responding resources by providing multiple updates regarding Subject 1's actions and his direction of travel. The BOPC noted that although Sergeant A explained that he/she was 60-80 feet behind Subject 1 as he/she followed in foot pursuit, he/she eventually closed distance and initiated physical contact with Subject 1 to take him into custody.

The BOPC noted that the UOFRB had considered Sergeant A's decision to initiate a foot pursuit in this incident. In doing so, the UOFRB inquired upon Subject Matter Experts (SME) from LAPD Training Division (TD) as to the Department's training regarding the appropriateness of initiating a foot pursuit by a Sergeant working as a single officer "L-car," in order to apprehend an armed suspect. The TD SME advised the UOFRB that the decision point to start pursuing an armed suspect would be based on the background and knowledge of the tactical situation at the time.

The UOFRB majority noted that although Sergeant A did not urgently respond to the radio call and seek out what he/she believed were possible robbery suspects, when he/she encountered the Subjects, he/she chose to attempt to stop the Subjects on his/her own. The UOFRB majority considered that Sergeant A chose to initiate a foot pursuit of a robbery suspect armed with a handgun by him/herself and without a partner or additional resources. The UOFRB majority noted that although Sergeant A explained his/her intention to follow Subject 1 in containment mode, he/she did not attempt to establish a perimeter and eventually closed distance and apprehended Subject 1 without waiting for additional resources. The UOFRB majority noted that Sergeant A drew his/her service pistol and ran with his/her service pistol, which they opined was tactically unsafe due to the potential for an unintentional discharge. The UOFRB majority noted that Sergeant A explained his/her concern for the safety of the community as his/her reasoning to initiate the foot pursuit; however, the UOFRB majority opined that based on the knowledge Sergeant A had at the time, which included that Subject 1 was an armed suspect and Sergeant A did not have a partner, Sergeant A made a poor tactical decision to initiate a foot pursuit of the armed suspect. The UOFRB majority opined that the overall tactics utilized during this foot pursuit placed Sergeant A in tactically disadvantageous positions and substantially deviated from Department approved tactical training without justification.

The UOFRB minority reviewed the same set of facts and noted Sergeant A's skill and experience in working in tactical operations. The UOFRB minority also weighed the public interest in taking a violent suspect into custody against the possible danger. This consideration tipped the scales in favor of a containment-oriented foot pursuit. The UOFRB minority opined that during his/her foot pursuit, Sergeant A maintained a distance of 60-80 feet from the armed subject, did not follow directly behind him, and utilized parked vehicles along the curb as cover. The UOFRB minority also noted that throughout the foot pursuit, Sergeant A remained in containment mode and at no time during the foot pursuit did Sergeant A attempt to close the distance between him/herself and the armed suspect. Sergeant A only apprehended Subject 1 when Subject 1 was at a tactical disadvantage and the arrest was accomplished with limited risk to Sergeant A.

Based on the totality of the circumstances, the UOFRB minority determined, and the BOPC concurred, that Sergeant A's actions, related to this topic, did not deviate from approved Department tactical training.

## **2. Utilization of Cover**

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

As Sergeant A arrived in the area of the radio call and observed the two Subjects, he/she began to exit his/her police vehicle and commanded Subjects 1 and 2 to put their hands up. The Subjects fled, causing Sergeant A to re-enter his/her police vehicle and follow after Subject 1. Sergeant A observed that Subject 1 was armed with a handgun. As Subjects 1 and 2 began running in separate directions, Sergeant A explained his/her belief that it was unsafe to stay in his/her police vehicle due to Subject 1 being armed. Sergeant A exited his/her police vehicle and began following Subject 1 in foot pursuit. The BOPC noted Sergeant A explained that he/she was in containment mode as he/she followed Subject 1 west from an approximate distance of 60-80 feet.

Sergeant A explained that he/she ran in the middle of the street due to Subject 1 running west on the south curb. Sergeant A stated that there were parked vehicles along the south curb and the distance he/she maintained from Subject 1 provided him/her some cover from Subject 1. The BOPC noted as Subject 1 fell and discarded his handgun in the dirt, Sergeant A closed distance and utilized a parked white van as cover. As Sergeant A commanded Subject 1 to get on the ground, he/she left his/her cover behind the white van and approached Subject 1 in order to initiate physical contact and take Subject 1 into custody.

The UOFRB majority noted that Sergeant A's decision to exit his/her police vehicle as he/she followed the two subjects south caused him/her to run by Subject 2, who began running north past him/her. The UOFRB majority noted that the second suspect was behind Sergeant A as Sergeant A followed Subject 1, placing Sergeant A in a tactically disadvantageous position. The UOFRB majority noted that Sergeant A left his/her greatest available cover, which was his/her police vehicle, and was running in an open area without the benefit of nearby cover or a partner officer. The UOFRB majority considered that Sergeant A believed that based on his/her distance from Subject 1 and the parked vehicles along the south curb, he/she had some cover; however, the UOFRB majority opined that Sergeant A was in an exposed tactical position running in the middle of the street and he/she was not actively utilizing the available cover of the parked vehicles. The UOFRB majority noted that at the end of the foot pursuit, Sergeant A left the cover of a parked van and approached Subject 1 by him/herself based on his/her belief that he/she could quickly take Subject 1 into custody and begin coordinating additional resources to contain the second suspect. The UOFRB majority opined that Sergeant A did not effectively utilize the available cover throughout the incident and chose to leave the safety of his/her available cover to place him/herself in vulnerable and tactically disadvantageous positions.

The UOFRB minority reviewed the same set of facts and opined that during his/her foot pursuit, Sergeant A maintained a distance of 60-80 feet from the armed subject, did not follow directly behind the subject which would afford an easier target but rather at an angle, and utilized parked vehicles along the curb as cover. The UOFRB minority also noted that throughout the foot pursuit, Sergeant A remained in containment mode and at no time during the foot pursuit did Sergeant A attempt to close the distance between him/herself and the armed suspect. The UOFRB minority considered Sergeant A's decision to take Subject 1 into custody by him/herself. The UOFRB minority noted that Sergeant A observed Subject 1 disarm himself and put himself into a prone position. Sergeant A approached and took Subject 1 into custody based on Sergeant A's experience, training, and physical fitness, which minimized the danger to Sergeant A. Sergeant A's decision allowed for additional responding units to be better utilized to locate Subject 2, who was not in custody.

While the BOPC agreed with the UOFRB minority that Sergeant A's foot pursuit tactics and his/her use of the parked vehicles as cover during the foot pursuit did not represent a substantial deviation from approved Department tactical training, the majority of the BOPC concurred with the UOFRB majority that Sergeant A's decision to leave cover in order to take Subject 1 into custody was a substantial deviation, without justification, from approved Department tactical training.

### **3. Tactical De-escalation**

Officers, when faced with an ongoing tactical situation, must remain alert to improve their overall safety by their ability to recognize an unsafe situation and then work collectively to ensure a successful resolution.

In this case, Sergeant A closed distance with Subject 1 and commanded Subject 1 to get on the ground while utilizing profanity multiple times to emphasize his/her commands. Sergeant A then initiated physical contact and utilized profanity while questioning Subject 1 if he was going to point a handgun at him/her again. Sergeant A utilized profanity in response to Subject 1's stating he could not breathe, that Sergeant A did not care, and for Subject 1 to stop talking.

The UOFRB majority noted that this was a dynamic incident; however, the UOFRB majority opined that officers are expected to maintain their composure and, when feasible, attempt to de-escalate tense and hectic tactical situations. The UOFRB majority considered Sergeant A's communication with Subject 1 during the foot pursuit in which his/her verbiage appeared as if he/she was challenging Subject 1 when Sergeant A stated, "Are you gonna do this bro? You want to do it? Get on the ground." The UOFRB majority determined that Sergeant A's statements were inappropriate and had the potential to escalate the tactical situation. The UOFRB majority opined that Sergeant A's utilization of profanity during this incident was also a poor decision and had the potential to unnecessarily escalate the encounter. The UOFRB majority determined that Sergeant A's statements to Subject 1 were collectively contrary to techniques of de-escalation.

The UOFRB minority reviewed the same set of facts and opined that given the circumstances of Sergeant A fearing for his/her life while dealing with a potentially violent, uncertain and life-threatening situation by him/herself, it was understandable for Sergeant A to utilize profanity. Sergeant A escalated his/her command presence to de-escalate Subject 1's potential for violence. The UOFRB minority opined that Sergeant A was in an extreme circumstance and it was reasonable for Sergeant A to express him/herself in a forceful manner.

Based on the totality of the circumstances, the UOFRB majority determined, and the BOPC concurred, that Sergeant A's actions were a substantial deviation, without justification, from approved Department tactical training.

### **4. Contact and Cover Roles/Tactics**

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Sergeant A drew his/her service pistol after Subject 1 fell to the ground the first time and rearmed himself as Subject 1 continued to run. Sergeant A believed Subject 1 was attempting to look back and acquire him/her as a target and assumed the role of the designated cover officer as he/she did not have the benefit of a partner or additional resources. Sergeant A closed the distance with Subject 1 as Subject 1 fell a second time and discarded his handgun. Sergeant A took a position behind a parked van as he/she commanded Subject 1 to get on the ground. Sergeant A explained that Subject 1 complied with his/her commands and believed Subject 1 was essentially surrendering. Sergeant A believed based on Subject 1's demeanor and compliance, he/she could swiftly take Subject 1 into custody and transition to coordinating responding resources for the second outstanding suspect. Sergeant A approached Subject 1 with his/her service pistol drawn, initiated physical contact, holstered his/her service pistol, and then proceeded to take Subject 1 into custody by him/herself without a cover officer.

The UOFRB majority opined that in this case, Sergeant A's decision to assume the role of both the contact and cover officers was a poor tactical decision which placed Sergeant A in a tactically disadvantageous position. The UOFRB majority noted that Subject 1 was complying with commands, Sergeant A was in a position of advantage behind a parked van, and additional resources were in close proximity en route to Sergeant A's location. The UOFRB majority considered that Subject 1 was an unsearched robbery suspect who had been armed with a handgun and could have additional handguns or weapons on his person. The UOFRB majority opined that Sergeant A had time and available cover, Subject 1 was compliant with commands, and there was no exigency for Sergeant A to leave a tactically advantageous position and approach to initiate physical contact with Subject 1 on his/her own. The UOFRB majority opined that Sergeant A's decision placed him/her in a tactically disadvantageous position.

The UOFRB minority reviewed the same set of facts and noted Sergeant A's skill and experience. The UOFRB minority weighed the public interest in taking a violent suspect into custody against the potential danger to Sergeant A. The UOFRB minority opined that Sergeant A's actions were deliberately taken as an extension of his/her confidence in his/her training and experience, his/her knowledge of Department procedures and directives, and his/her warranted confidence that he/she could overcome whatever resistance the suspect could offer while achieving his/her stated goal of protecting the public.

Based on the totality of the circumstances, the UOFRB majority determined, and the majority of the BOPC concurred, that Sergeant A's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
  - **Foot Pursuit Broadcast** – Sergeant A broadcast that he/she was Code Six with the two Subjects identified in the radio call; however, he/she did not broadcast his/her specific location, causing CD to broadcast he/she was Code Six at the location of the initial radio call. Approximately 29 seconds later, though Sergeant A broadcast his/her updated location and that the suspect was running south and then west, Sergeant A did not broadcast that he/she was in foot pursuit. Sergeant A was reminded of the importance of providing the specific location at the initiation of a foot pursuit and other relevant information to ensure that responding units are able to respond in a tactically safe and effective manner. When feasible, this is best accomplished prior to taking police action.
  - **Initiating Physical Contact while holding a service pistol** – Sergeant A had drawn his/her service pistol prior to approaching and initiating physical contact with Subject 1, who had eventually laid prone on the ground. Sergeant A utilized his/her knee to apply body weight to Subject 1's back as he/she holstered his/her service pistol and placed Subject 1 in handcuffs. Sergeant A was reminded that initiating physical contact with a suspect while holding a service pistol may inhibit an officer's ability to utilize other force options or to de-escalate. There is also an increased risk that the suspect could gain control of the service pistol, or an unintentional discharge could occur.
  - **Non-Medical Face Coverings** – The investigation revealed Sergeant A did not don a Non-Medical Face Covering, as directed by the Chief of Police on May 20, 2020, for health and safety concerns related to the coronavirus. Sergeant A was reminded to don a Non-Medical Face Covering when feasible to minimize health and safety concerns to officers.
- 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 are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

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

In the BOPC's evaluation of the tactics employed in this case, one Commissioner found the UOFRB Minority Opinion – that Sergeant A's tactics did not unjustifiably and substantially deviate from approved Department tactical training – to be supported by the evidence and therefore opined that a finding of Tactical Debrief for Sergeant A's tactics was warranted. Ultimately, by a vote of four-to-one, the BOPC found Sergeant A's tactics to warrant a finding of Administrative Disapproval.

## Command and Control

- After first responding to the police station to obtain information regarding the previous robbery, Sergeant A was the first unit to arrive at the scene of the incident. Sergeant A engaged in a foot pursuit by him/herself of Subject 1 who he/she had observed to be armed with a handgun. The foot pursuit culminated in Sergeant A approaching Subject 1 after observing Subject 1 throw the handgun away, utilizing non-lethal force, and taking Subject 1 into custody by him/herself. Sergeant A continued to broadcast pertinent information regarding the outstanding suspect and coordinated with responding resources in order to maintain containment at the location where the outstanding suspect was last seen. Sergeant A identified the handgun that Subject 1 discarded and directed Officer D to its location so that Officer D could recover and secure it. Sergeant A requested Officer C to assume responsibility of Subject 1, and he/she responded to the last location of the outstanding suspect, per Witness A, in order to assist with coordinating the search. Sergeant A coordinated with Sergeant C and made the determination to terminate the perimeter for the outstanding suspect based on the information the officers had, and the likelihood the outstanding suspect had already been arrested for robbery two days prior on the day of the initial crime. Upon being notified by Officer C of Subject 1's injuries, Sergeant A notified Sergeant B of the injuries sustained by Subject 1 so that proper notifications could be made.

The BOPC noted that upon taking Subject 1 into custody, Sergeant A transitioned to a supervisory command and control role in which he/she demonstrated active leadership by coordinating responding resources for an outstanding suspect and attempted to set up containment. Sergeant A provided clear direction and communicated effectively in order to manage resources and provide essential information.

In conducting an objective assessment of Sergeant A's performance, the BOPC determined that during the solo foot pursuit and use of force, Sergeant A's actions were not consistent with Department training and the BOPC's expectations of a supervisor during a critical incident. The actions of Sergeant A after Subject 1 was taken into custody were consistent with Department training and the BOPC's expectations of a supervisor during a critical incident.

Sergeant C was the first uninvolved supervisor to arrive at the scene and assumed the role of the Incident Commander and took command and control of the incident. Sergeant C assisted in establishing a command post for containment of the possible outstanding suspect. After a brief foot search, the perimeter was cancelled shortly thereafter due to Subject 1, the primary suspect, being in custody. Sergeant C, upon receiving information on Subject 1's broken left clavicle, notified Sergeant B. Sergeant C conducted a NCUOF investigation at the direction of Sergeant B, who received advisement from FID. Sergeant C interviewed Subject 1 at the hospital,

interviewed the involved personnel, and canvassed the scene of the use of force incident for witnesses and evidence.

Sergeant B was notified by Sergeant C of Subject 1's injuries and medical status. Sergeant B contacted FID and advised FID of the information that was known at the time. After receiving advisement by FID to conduct a NCUOF, Sergeant B directed Sergeant C to conduct the NCUOF investigation.

The actions of Sergeants B and C were consistent with Department training and the BOPC's expectations of a supervisor during a critical incident.

## **B. Drawing and Exhibiting**

- **Sergeant A**

According to Sergeant A, he/she engaged in a foot pursuit of Subject 1, following Subject 1 from a distance in order to contain Subject 1 since he/she had already observed that Subject 1 was armed with a handgun. Sergeant A observed Subject 1 fall to the ground, then get back up, at which time Subject 1 stumbled and "picked the pistol up with his left hand." Sergeant A observed that Subject 1 "looked over his right shoulder" at Sergeant A and believed Subject 1 was attempting to acquire him/her as a target and that Subject 1 may attempt to "start shooting" at him/her. Sergeant A stated that based on his/her observation that Subject 1 was armed with a handgun and Subject 1's continued actions of rearming himself after falling and dropping the handgun, Sergeant A believed "the situation could escalate to the point where deadly force would be needed for my [Sergeant A's] protection and for the protection of the neighborhood." Due to Sergeant A's belief regarding the danger of the tactical situation, he/she drew his/her service pistol.

The BOPC conducted a detailed evaluation of the reasonableness of Sergeant A's drawing and exhibiting of his/her service pistol. The BOPC considered that Sergeant A was responding to a radio call of possible ADW suspects that he/she believed matched the description of robbery suspects from two days prior. Upon his/her arrival at scene, Sergeant A observed and attempted to detain Subject 1 and an additional male. The BOPC noted that Sergeant A immediately observed Subject 1 reach for his right front pants pocket, pull out a handgun, and begin running. Sergeant A broadcast that Subject 1 was running with a handgun as he/she began following after Subject 1. The BOPC considered that although Sergeant A observed Subject 1 armed with a handgun from the onset of the encounter, he/she did not draw his/her service pistol immediately and instead followed Subject 1 at a distance and maintained communicating Subject 1's actions and direction of travel for responding resources. The BOPC noted that Sergeant A was concerned as he/she observed Subject 1 fall and drop his handgun. Subject 1 then regained his footing and rearmed himself with his handgun.



The BOPC considered Sergeant A's explanation that he/she drew his/her service pistol when he/she observed Subject 1, who was armed with a handgun, attempting to look back in Sergeant A's direction. Sergeant A believed that Subject 1 was attempting to acquire Sergeant A's location so that Subject 1 could target him/her and shoot him/her. The BOPC also noted that Sergeant A was aware that Subject 1 was in close proximity to nearby residences and a school. The BOPC considered Sergeant A's concern for his/her safety as well as that of the community.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, while faced with similar circumstances, 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 Sergeant A's drawing and exhibiting of a firearm to be In Policy.

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

- **Sergeant A – (1) Body weight**

According to Sergeant A, he/she observed Subject 1 lying on his stomach with his "arms out to the side." Sergeant A approached Subject 1 and utilized his/her knee by placing his/her "knee onto the middle of his back" and applied body weight in order to maintain control and "hold him [Subject 1] down" (**Body weight**). Sergeant A then utilized his/her left hand to obtain a firm grip on Subject 1's left wrist and moved Subject 1's left hand to the small of Subject 1's back. Sergeant A then utilized his/her right hand to obtain a firm grip on Subject 1's right wrist. Sergeant A lifted his/her right knee up from Subject 1's back in order to position Subject 1's right wrist behind Subject 1's back and then placed his/her "knee back onto his [Subject 1's] back" to maintain control and handcuff Subject 1. Upon handcuffing Subject 1, Sergeant A immediately removed his/her weight from Subject 1, stood up, and began coordinating with responding units. Sergeant A stated that during the handcuffing process, Subject 1 was not resisting and he/she utilized firm grips only to maintain control in the event Subject 1 resisted.

In this case, the BOPC conducted a thorough review of the incident to evaluate the reasonableness of Sergeant A's use of non-lethal force. The BOPC noted that leading up to the non-lethal use of force, Sergeant A had traversed approximately 275 yards during the foot pursuit and had observed Subject 1 fall at least twice. Additionally, the BOPC considered that Sergeant A did not have additional resources at his/her location prior to initiating physical contact with Subject 1.

The BOPC noted that the UOFRB deliberated in depth with regard to Sergeant A's use of his/her knee to apply body weight in this incident. In doing so, the UOFRB inquired upon an SME from LAPD Training Division (TD) Arrest and Control Section (ARCON) as to the Department's training with regard to the manner in which knees

are utilized to apply body weight. The ARCON SME advised that the Department does teach officers to utilize their knees to apply body weight; however, the officers should be mindful of placing their knees and not dropping them onto a suspect. The preferred action in this case would have been to approach Subject 1 from the side and utilize the "Three-points of Contact" technique in which an officer's inside knee would make contact with a prone suspect's back while the officer simultaneously makes contact with the suspect's right shoulder with the other knee. This would be conducted as the officer simultaneously uses one hand to pin the elbow to the ground and the other hand to grip the suspect's hand to control the wrist and fingers.

The BOPC noted that Sergeant A observed Subject 1 stumble and fall and discarded the handgun he was armed with. The BOPC considered that Sergeant A ordered Subject 1 to get onto his stomach, to which Subject 1 complied and placed himself onto his stomach with his arms out to his sides. The BOPC discussed Sergeant A's articulation that based on his/her observation that Subject 1 had discarded his handgun, and Subject 1's demeanor, he/she believed that Subject 1 had essentially given up and it was safe to move forward and take him into custody. The BOPC noted that Sergeant A made the determination to initiate physical contact and handcuff on his/her own due to Subject 1 being compliant with his/her commands, his/her concern for the witness still following the second suspect, and Sergeant A's urgency to coordinate responding resources in order to get the second suspect into custody. The BOPC considered that the injuries sustained by Subject 1 were to the left side of the body; however, Sergeant A's knee was placed on the lower right side of Subject 1's back.

The BOPC noted that the UOFRB majority opined that the non-lethal force utilized when Sergeant A positioned his/her knee on the back of Subject 1, in order to maintain body weight on Subject 1, as he/she completed his/her handcuffing of Subject 1, was minimal and appropriate. The UOFRB majority noted that the utilization of body weight on a suspect prone on the ground was consistent with Department training standards to maintain a level of control. The UOFRB considered that the application of a minimal amount of force by Sergeant A allowed him/her to quickly handcuff Subject 1, remove his/her body weight from Subject 1, and then communicate and coordinate responding resources. The UOFRB majority opined that based on Subject 1's compliant behavior, Sergeant A's swift approach, and the minimal amount of force utilized by Sergeant A, the non-lethal force was reasonable and necessary to quickly take Subject 1 into custody. Additionally, the UOFRB majority opined that the manner in which Sergeant A positioned his/her knee on Subject 1's back to maintain body weight was not a deviation from Department training as was not intended to be forceful.

The UOFRB minority reviewed the same set of facts and opined that the manner in which Sergeant A positioned his/her knee onto Subject 1's back in order to maintain body weight was unwarranted, and unnecessary, based on Subject 1's compliance and lack of resistance at the time of the application of force. The UOFRB minority noted that based on a preponderance of the evidence and Sergeant A's

observations, Subject 1 was fairly compliant and following commands. The UOFRB considered that Sergeant A did not utilize the “three points of contact” technique, which would have minimized the amount of weight and force applied to one part of Subject 1’s body, and instead initiated physical contact with Subject 1 utilizing only his/her knee. The UOFRB minority acknowledged that although Sergeant A’s BWV recording did not capture his/her knee making contact with Subject 1, the UOFRB minority opined that Sergeant A conducted a rapid, downward descent onto Subject 1. Sergeant A’s application of body weight with his/her knee was contemporaneous with Subject 1 screaming out in pain. The UOFRB minority opined that based on the evidence and the totality of the circumstances, the manner in which Sergeant A positioned his/her knee onto Subject 1’s back to utilize body weight was deliberate, forceful, and not proportional to the lack of resistance by Subject 1 at the time.

Based on the totality of the circumstances, the UOFRB minority determined, and the BOPC concurred, that an officer with similar training and experience as Sergeant A, while faced with similar circumstances, would believe that the same application of non-lethal force would not be objectively reasonable, nor proportional.

Therefore, the BOPC found Sergeant A’s non-lethal use of force to be Out of Policy.

### **Additional**

- **Rendering Aid/Medical Treatment** – The FID investigation revealed that Officers C and D arrived on scene and immediately began monitoring Subject 1. Officer D requested an RA upon Officer C’s request, due to Subject 1 not looking or feeling well after he was taken into custody. Officer C continued to monitor Subject 1 and allowed Subject 1 to sit and then lay on his back, in what was the most comfortable position for Subject 1 until the arrival of the RA. An LAFD RA arrived on scene and treated Subject 1. Subject 1 was treated by LAFD personnel for left shoulder pain due to a fall. Personnel from LAFD placed Subject 1 on a gurney, stabilized and transported him to the hospital.