

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

**OFFICER-INVOLVED SHOOTING – 054-20**

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

Southeast                      11/20/20

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

Officer A                      6 years, 1 month  
Officer B                      6 years, 1 month

**Reason for Police Contact**

Officers A and B were on patrol when they observed several men congregating near a double-parked vehicle. Officer B observed Subject 1 make a tossing motion into a parked vehicle and walk away.

The officers conducted an investigative stop and Officer B identified that the tossed item was a handgun. Officer A attempted to detain Subject 1; however, he resisted, knocking Officer A to the ground, and ran away. A foot pursuit ensued and a use of force involving the use of a TASER occurred. During a struggle over the TASER, Subject 1 gained control of the TASER and used it against the officer, resulting in an Officer-Involved Shooting (OIS). Subject 1 was not struck by the gunfire and was taken into custody.

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

Subject: Male, 31 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 October 26, 2021.

### **Incident Summary**

On Friday November 20, 2020, at approximately 2245 hours, Police Officers A and B were patrolling the area of a housing development complex. Officers A and B had worked as partners for approximately four years. Officers A and B were in a marked black and white hybrid police vehicle. Officers A and B were equipped with Body Worn Video (BWV) and their patrol vehicle was equipped with a Digital In-Car Video System (DICVS).

Officer A was the passenger and Officer B was the driver. Since they worked as partners on a regular basis, they constantly talked about tactics and planning. According to Officer B, he/she usually assumed the role of the cover officer and handled radio transmissions. Both officers were aware that Officer B was the slowest runner of the two and that during a foot pursuit, Officer B would be responsible for communications during the foot pursuit.

According to Officer A's BWV, at approximately 2248 hours, he/she and Officer B drove their police vehicle south into the parking lot located in between buildings. Officers A and B observed a vehicle that was double-parked and a group of four to five individuals, some of which they knew by name standing around the vehicle. Officers A and B knew that some of these individuals did not reside within the housing development. Surveillance video from the housing development captured the officers' arrival in their police vehicle and their interactions with the group of individuals that were in the parking lot. The video had no audio and it recorded the officers' interactions from a distance.

According to Officer A, one of the individuals he/she recognized standing next to the double-parked vehicle was Subject 2. Officer A had recently arrested Subject 2 a week prior for a weapons charge and had just testified at his preliminary hearing. According to Officer B, as the officers pulled into the parking lot, he/she observed and recognized Subject 1, who was a known gang member, who he/she had previously arrested. Officer B observed Subject 1 make a tossing motion into a parked vehicle.

Officer B believed Subject 1 was trying to discard contraband and told Officer A, "Toss" as they exited their police vehicle. Officer B was not sure if his/her partner heard him/her make that statement. Officer B walked to the vehicle, looked inside through the rear driver's side window, which was broken, and observed a gun on the rear passenger seat. According to Officer B, the window was already broken when he/she made his/her approach. Officer B immediately told Officer A to grab Subject 1. Officer B stated that he/she did not want to say too much because he/she did not want the other individuals in the parking lot to hear that a gun was in the car.

Simultaneously, Officer A was telling Subject 2 to leave the area when Officer B came over, gestured, and directed him/her to detain Subject 1, who was walking east through the parking lot. According to Officer A, he/she recalled seeing Subject 1 walking east away from a parked vehicle when he/she exited his/her police vehicle. Officer A stated that he/she recognized the individual walking away (Subject 1). Officer A had knowledge that Officer B had arrested Subject 1 in the past.

At 2248:30 hours, Officer A's BWV captured Officer B pointing at Subject 1, tapping on his/her partner's shoulder, and Officer A walking over and contacting Subject 1.

According to Officer A, he/she did not hear Officer B say anything to the effect of detaining Subject 1 but knew that Officer B saw something significant that caused him/her to want Subject 1 detained. Based on Officer B's reaction and the expression of urgency on his/her face, Officer A believed the item that his/her partner observed was a handgun.

Officer A stated that he/she was the cover officer and knew that the role of using their radios to communicate and request any resources was his/her responsibility. Officer A elaborated that he/she did not show themselves at scene via their radio or Mobile Digital Computer (MDC) when they pulled into the parking lot because he/she believed their interactions with the individuals in the parking lot was going to be consensual and would consist of the officers telling the people in the parking lot to leave the area.

According to Officer A, it was only after Officer B gestured at him/her to detain Subject 1 that the roles of contact and cover officer changed. Officer A stopped his/her interaction with Subject 2 and approached Subject 1. Officer A believed that he/she became the contact officer and Officer B became the cover officer. It was at that point that Officer A believed Officer B broadcast they were at scene. Officer A indicated, in hindsight, that he/she should have showed the officers at scene immediately. At 2248:27 hours, Officer B broadcast the officers' status and location (Code Six).

According to Officer A, his/her intention was to detain Subject 1. Officer A contacted Subject 1 between two parked cars on the east side of the parking lot. Officer A told Subject 1 to put his hands behind his back because he/she wanted to talk to him. Officer A stated that Subject 1 was surprised and asked why he was being stopped.

According to Officer A, Subject 1 placed his hands behind his back, but he then placed them on top of one of the parked cars. Officer A recalled Subject 1 was holding on to his cell phone and believed that Subject 1 was attempting to make a phone call prior to being detained. Officer A told Subject 1 to put the phone down and place his hands behind his back.

Officer A stated that he/she was holding his/her flashlight with his/her left hand, which made it difficult for him/her to reach for his/her handcuffs and control Subject 1 as he attempted to pull away from him/her. Officer A did not recall, but he/she believed he/she put his/her flashlight away and activated his/her BWV camera. According to

Officer A, he/she knew that a piece of his/her equipment fell off his/her person because he/she heard something hit the ground; however, he/she was not sure if it was his/her BWV camera, or his/her flashlight that fell. A review of Officer A's BWV revealed he/she had a two-minute late activation on his/her BWV; therefore, no audio was recorded during those two-minutes. Officer A's BWV captured his/her camera falling to the ground and Officer A holding his/her flashlight in his/her right hand, not his/her left hand.

According to Officer B, as his/her partner attempted to detain Subject 1, he/she observed that Subject 1 was not cooperating, but he/she believed that Officer A could control him. Officer B decided to walk over to calm Subject 1 and to assist in the efforts to take him into custody, but he/she observed a group of individuals forming around the vehicle where the gun was located. Officer B's main concern was that the other individuals might try to recover the firearm and use it against them. Officer B ordered the group to stay away from the vehicle and could see that his/her partner was struggling with Subject 1. At approximately, 2248:35 hours, Officer B broadcast a request for a back-up for a man with a gun.

According to Officer A, Subject 1 continued resisting and placed his hands over his head. Officer A stated the only way he/she was able to keep Subject 1 from getting away was by wrapping his/her hands around Subject 1's arms which were stiff and extended out. Officer A placed his/her arms underneath Subject 1's armpits and wrapped his/her hands behind the base of Subject 1's head and neck to control him.

At 2249:07 hours Officer A's BWV captured Officer B telling Subject 1, "Hey stop. Relax," followed by Officer A telling Subject 1, "Put your hands behind your back or you're gonna get tased."

At 2249:24 hours, Officer A's BWV video captured the voice of an unidentified male in the parking lot saying, "You're choking him out man. You're choking him out." According to Officer A, at no point did his/her hands or arms contact the front of Subject 1's neck.

According to Officer A, as he/she continued to struggle to maintain control of Subject 1, Subject 1 used a leg sweep technique to trip him/her. Officer A described Subject 1 bending over to get him/her (Officer A) off balance and then using his right leg to trip him/her. Officer A fell backward to the ground and landed on the left side of his/her buttocks.

Officer A's BWV captured him/her falling to the ground and immediately standing up. The BWV also captured the sound of Officer A running and Officer B saying in stern voice, "Hey, step away from the fucking car!"

According to Officer B, he/she looked back toward Officer A and saw him/her on the ground as Subject 1 ran east between the buildings. Officer B observed Officer A chase Subject 1 between the buildings.

According to Officer A, after he/she fell, he/she immediately stood up and ran after Subject 1 east through the housing development. Officer A stated that Subject 1 was approximately 20 feet ahead of him/her. Officer A did not communicate with his/her partner but believed his/her partner was behind him/her. Officer A stated that he/she believed this because they had previously planned that if they went into foot pursuit, Officer A would pursue because he/she was faster while Officer B handled communications.

According to Officer B, he/she remained in the parking lot because he/she was waiting to see if Subject 1 and Officer A were going to come back around the building to the pedestrian gate leading out to street, but they did not. Officer B attempted to gain access to the firearm one additional time but could not reach it. Officer B then decided to run where he/she last observed his/her partner running.

Officer A saw Subject 1 running east and then turn right at a building. According to Officer A, prior to making the turn, the Subject 1 removed his jacket and tossed it next to shrubs. Subject 1 ran approximately ten feet further and proned himself on the ground without being ordered by Officer A to do so. Officer A stated the Subject 1 quickly stood up, turned around, and walked toward him/her.

According to Officer A he/she removed his/her TASER as Subject 1 got back up and walked towards him/her. Officer A believed that Subject 1 was trying to bait him/her into another altercation, so he/she deployed his/her TASER. Officer A did not believe the darts hit Subject 1 because he continued to run. According to Officer A, Subject 1 then stepped onto a porch of a residence and stopped as if he was going to surrender. According to Officer A, he/she had chased after Subject 1 and was still close to him. Officer A did not recall removing the cartridge from the TASER but believed he/she may have removed it as he/she was running.

Officer A ran after Subject 1 and stopped within four feet of him while still holding his/her TASER in his/her left hand. Officer A believed Subject 1 was going to give up because it appeared that he was about to raise his hands but instead he turned around. As Subject 1 turned around, Officer A believed Subject 1 was going to fight him/her again, so Officer A performed a drive-stun to Subject 1's left shoulder with his/her TASER. Officer A believed the drive-stun was ineffective because Subject 1 opened the door to the residence and ran inside.

According to Officer A, he/she looked inside the apartment and saw two children inside. Subject 1 ran past the children toward the back door. Officer A stated he/she knew there was a back door because he/she has been inside these housing residences multiple times. Officer A believed that Subject 1 was going towards the back door and was concerned for the safety of the children. Officer A believed Subject 1 was a stranger to the children because Subject 1 ran through the apartment without saying anything to them. Officer A did not want Subject 1 to backtrack through the residence and come back towards the children, so he/she entered the residence and ran after Subject 1.

Officer A entered the residence while holding the TASER in his/her left hand and ran past the children. Officer A stated that he/she attempted to grab onto Subject 1 by the back door adjacent to the dining area, while giving Subject 1 commands to stop fighting and resisting. According to Officer A, Subject 1 did not comply with his/her commands and turned around facing him/her. Officer A attempted to conduct a drive stun with the TASER while still attempting to de-escalate. Officer A stated the TASER did not work and the Subject was still trying to escape.

According to Officer A, he/she believed the Subject grabbed the TASER with both his hands. Officer A was unsure if he/she attempted to strike Subject 1 with his/her left knee and stated they were too close to each other, and the strike was ineffective if he/she did.

Officer A stated that he/she and Subject 1 were facing each other when Subject 1 grabbed the front end of the TASER with both hands. Officer A stated he/she tried to drive stun Subject 1 because he/she did not know if Subject 1 even had the TASER yet. Officer A stated that Subject 1 turned the TASER against him/her and placed the TASER on his/her left leg. Officer A felt the full effect of the TASER and felt his/her body begin to shut down. Officer A believed that if Subject 1 obtained control of the TASER, he would use it against Officer A. Officer A believed that he/she pulled the trigger on the TASER approximately four to five times during his/her interaction with Subject 1 while inside the apartment. According to the TASER printout, the TASER was activated five times during the entire incident.

According to Officer A, he/she felt the electrical current traveling through the left side of his/her body and felt like his/her body was going to shut down and become incapacitated. Officer believed that if this happened, Subject 1 could injure and/or kill him/her. Officer A stated at the point during the drive stun, as he/she felt the current traveling through the left side of his/her body, he/she removed his/her pistol because he/she felt there was no other option. Officer A indicated it was a close contact shot, and he/she described tucking his/her right arm below his/her right ribs and away from Subject 1 when he/she fired the single round. Officer A fired a close contact shot to prevent Subject 1 from grabbing his/her pistol. Officer A stated that he/she could feel the current of the TASER going through his/her body when he/she fired the round.

Officer A aimed at Subject 1's torso but missed. According to Officer A he/she fired a single shot west and in a downward direction away from the children and believed the round struck the kitchen floor. Officer A believed the round traveled in a downward trajectory because he/she was fighting for his/her TASER with his/her left hand. Officer A believed Subject 1 was gripping the front of the TASER with both hands when he/she fired his/her pistol.

In describing how Officer A held his/her firearm at the time of the OIS, Officer A stated, "It was with one hand [,] with my right hand." When asked by Force Investigation Division (FID) what he/she was doing with his/her left hand at that time, Officer A replied, "My left hand is fighting for my TASER at this point [...] And still getting tased

myself.” An FID detective then asked, “Okay -- So, he has control? You mentioned he had two hands on the TASER?” Officer A responded, “I believe he had two hands on my TASER.”

According to Officer A, “After that [the firing of his/her pistol], Subject 1 immediately separates from us. He lets go. I -- I don’t know what happened to the TASER at that point. I don’t remember dropping it, but I didn’t know if he had it as well. So I thought he had it because I believe that I let go of it as I fired the round.”

According to Officer A at the time of this incident he/she did not know the difference between the effects of the TASER when being tased in drive-stun mode versus probe mode on a person.

After Officer A fired the round, Subject 1 immediately ran out the back door of the apartment and did not know if Subject 1 had the TASER in his possession as he fled. Officer A recalled holding onto Subject 1’s shirt and ripping it off Subject 1 as he ran out the back door. Officer A stated that he/she holstered his/her pistol and ran after Subject 1.

When Officer A fired his/her pistol at Subject 1, Officer B was still in the parking lot. According to Officer B, he/she attempted several times to retrieve the handgun from inside the parked vehicle; however, was unable to reach it. Officer B believed it was during his/her final attempt to retrieve the handgun that his/her BWV camera dislodged from its mount. According to Officer B, he/she continued looking for Officer A to come from behind building and called out his/her name twice, but Officer A did not respond. Officer B realized he/she would not be able to retrieve the gun, so he/she ran east to the last location Officer B saw his/her partner. As Officer B ran east, he/she saw Subject 1 exit from one of the housing units, followed by Officer A.

At 2250:19 hours, Officer A’s BWV camera, which remained on the ground of the parking lot continued to record and captured Officer B running east, in the same direction as Officer A last known direction. At 2250:23 hours, the BWV captured the sound of a gunshot and, approximately five seconds later, the voice of an unidentified male was heard saying, “grab it,” multiple times, to another unidentified person.

According to Officer A, after Subject 1 exited the apartment, he/she ran south and stopped at the south west corner of the building. When Subject 1 stopped, Officer A saw Officer B coming from behind which led Officer A to believe that Officer B was behind him/her the entire time.

Officer A was asked by an FID detective, “[D]id you -- obviously, you’ve been in a struggle with this individual [Subject 1] a number of times. Did you ever turn to see where your partner was?” Officer A replied, “No, sir.” The FID detective then asked, “Okay. But you still believed he was behind you?” Officer A replied, “Yes, sir.”

Officer A unholstered his/her pistol a second time and gave Subject 1 commands to get down on the ground. According to Officer A, he/she unholstered and pointed his/her pistol at Subject 1 a second time because Subject 1 had not yet been searched, and Officer A did not know if Subject 1 was armed with a pistol or with the TASER. Officer A believed that he/she held his/her pistol with a one-handed grip because he/she recalled trying to reach for his/her radio to broadcast for help.

According to the police radio, Southeast base frequency, at approximately 2250:25 hours, Officer A broadcast, "shots fired, officer needs help." According to Officer A, Subject 1 proned himself out on the ground, and Officer B approached and handcuffed Subject 1. Officer A holstered his/her pistol once Subject 1 was handcuffed. According to Officer B, he/she gave Subject 1 commands to get on the ground and Subject 1 complied.

Officer B did not recall if any other commands were given to Subject 1. When Officer B saw Subject 1 on the ground, he/she approached him and took him into custody by grabbing Subject 1's left arm and handcuffing his left wrist. Officer B then handcuffed Subject 1 right wrist. Officer B recalled that both he/she and Officer A used their knees to place body weight on Subject 1's back when he was handcuffed. According to Officer A, there was no use of force when Subject 1 was handcuffed.

Officer B recalled that Subject 1 was cooperative and did not resist when he was taken into custody. According to Officer B, at no point during this incident did he/she unholster his/her pistol. Officer B realized that his/her BWV camera was missing after he/she and his/her partner took Subject 1 into custody.

Because of the back-up request and help call, multiple units responded. As officers began arriving on scene, Officers A and B had handcuffed Subject 1 and stood him up to walk him back to the patrol vehicle. Officer A directed officers arriving at scene to the residence, advising them that he/she fired his/her weapon inside that residence and his/her TASER was also inside.

As Subject 1 was being taken into custody, Subject 2 was captured on surveillance video near the vehicle where Subject 1 was believed to have discarded the handgun. The surveillance video depicted a light source near the broken rear window on the driver side of the vehicle. Subject 2 later admitted to using the light on his cellular telephone to illuminate the interior of the vehicle where he retrieved the handgun. After retrieving the handgun, Subject 2 was depicted running south for approximately 10-15 feet then suddenly changing direction, running north toward the northeast corner of a residential building complex. Surveillance video depicted Subject 2 using the light from his cellular telephone moving west along the south side of a building toward another building. As Subject 2 approached this building, he discarded the handgun he recovered from the vehicle in a planter located near the northeast corner of the building. Subject 2 then continued running west into a parking lot.



At 2251:15 hours, DICVS from Police Officers C and D captured Subject 2 running in front of their police vehicle and prone himself on the ground in the parking lot located west of where the initial contact was made with Subjects 1 and 2.

According to Officer D, he/she and Officer C were responding to the help call when Officer D saw Subject 2 run from in between the houses, stop on his own, and prone himself out in front of their police vehicle. Officer D indicated that he/she had interacted with Subject 2 in the past, and the fact that Subject 2 stopped on his own, led Officer D to believe that Subject 2 was some way connected to the OIS. According to Officer D, Subject 2 in the past had been belligerent and non-compliant toward Officer D and his/her partner.

Officer D was the passenger officer and exited the police vehicle. According to Officer D, he/she unholstered his/her pistol because he/she believed the tactical situation could escalate to one involving the use of deadly force. Officer D held his/her firearm with a two-handed grip, with his/her finger along the frame, at a low-ready position while assessing. Officer D holstered his/her firearm, grabbed his/her handcuffs with his/her right hand, and handcuffed Subject 2. Officer D searched Subject 2 for any weapons and communicated to him that he/she was going to stand him up. Officer D indicated there was no use of force involving Subject 2. According to Officer C, he/she did not unholster his/her firearm during this incident. Officers C and D's DICVS did not depict Officer C with his/her pistol unholstered.

At approximately 2254 hours, uniformed Sergeant A arrived at scene and separated Officer A and Officer B. According to Sergeant A, he/she obtained a Public Safety Statement (PSS) from Officer A. According to Officer A, he/she recalled that uniformed Police Officer E walked over and handed Officer A his/her BWV camera that had fallen off in the parking lot.

Sergeant A then obtained a PSS from Officer B. After obtaining both officers' PSS's, Sergeant A walked Officers A and B to the Command Post. Sergeant B transported Officers A and B to Southeast station, where both officers continued to be monitored until they were interviewed by FID investigators.

According to Sergeant C, he/she responded to the scene and coordinated a protective sweep search of the residence where the OIS occurred to ensure nobody was injured. Inside the residence were two children, 12-year-old Witness A and 4-year old Witness B, who exited the residence. The children were reunited with their mother, Witness C, who was not present when the OIS occurred. Witness C, along with the children, were transported to Southeast station. Witness A was later interviewed by FID investigators in the presence of his mother. Officers located the TASER inside the residence, as well as the discharged casing from Officer A and placed an officer to watch over the evidence.

A foot search of the area located the handgun that Subject 2 had discarded.

Subject 1 was transported to Southeast station. According to the Southeast Area Adult Detention Log dated November 20, 2020, Subject 1 was signed in at 2300 hours. While at the station, Subject 1 told officers that he still had a TASER dart lodged in him, which was approximately 20 minutes after they arrived at Southeast station. Subject 1 lifted his arm and showed Officers G and H the TASER dart. A Rescue Ambulance was requested to respond to the Southeast station holding tank for Subject 1. Subject 1 was subsequently transported to a nearby hospital where the TASER dart was removed. Subject 1 was then medically cleared for booking and transported back to Southeast station where he and Subject 2 were interviewed by FID investigators.

**BWV and DICVS Policy Compliance**

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

According to Officer B, when he/she exited the police vehicle, he/she immediately activated his/her BWV. The BWV camera belonging to Officer B was lost during the incident and as such, there is no BWV data available. Officer B’s BWV camera remains outstanding and has not been recovered.

**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 Officer A and B’s tactics to warrant a finding of Administrative Disapproval.

**B. Drawing and Exhibiting**

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

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

The BOPC found Officer A and B’s non-lethal use of force to be In Policy.

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

The BOPC found Officer A's less-lethal use of force to be In Policy.

## **E. Lethal Use of Force**

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;

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

**Drawing or Exhibiting Firearms:** Unnecessarily or prematurely drawing or exhibiting a firearm limits an 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 or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers A and B had been partners for approximately four years. During their time as partners, Officers A and B discussed tactics, planning, contact and cover roles, and developed secret cues only they knew. Officer A stated that he/she and Officer B would create a plan for certain incidents and handle other incidents as they developed. Observing multiple people congregating in a parking lot known for



criminal/gang activity, Officers A and B planned to conduct a “foot beat” to address violations.

Following the OIS, Sergeants A and C worked together to create a plan to manage to the OIS scene and the ongoing tactical incident. Sergeant A agreed to monitor Officers A and B while Sergeant C managed the ongoing tactical incident.

**Assessment** – Entering the parking lot, Officer B observed Subject 1 make a tossing motion towards a parked vehicle; Officer B’s assessment was that Subject 1 had discarded contraband in the vehicle. Looking inside the vehicle, Officer B observed a handgun on the rear passenger seat. Officer B directed Officer A to detain Subject 1; Officer A’s assessment was that Officer B had observed “something significant within the vehicle,” possibly a handgun. Assessing the parking lot, Officer B observed numerous people nearby. Because he/she did not want “all the other people” to hear, Officer B did not tell Officer A about the handgun in the vehicle; Officer B’s assessment was that the people may access the handgun and utilize it against the officers.

After Officer A contacted Subject 1, and the non-lethal UOF ensued, Officer B assessed that Officer A was struggling to control Subject 1 and requested backup units. Officer B attempted to assist Officer A but also became concerned about people approaching the vehicle. When Officer A went in foot pursuit, Officer B’s assessment was that Subject 1 may return to the vehicle or attempt to exit a pedestrian gate accessing the street; Officer B remained in the parking lot monitoring the vehicle and the gate. Approximately 54 seconds later, Officer B’s reassessed and followed Officer A’s path of travel.

When Subject 1 laid prone on the ground during the foot pursuit, Officer A’s initial assessment was that he was surrendering. Officer A made the same initial assessment when Subject 1 stopped on the patio of the residence. When Subject 1 entered the residence, Officer A assessed that Subject 1 was going to flee out the back door. Officer A also assessed that the children did not know Subject 1 and that he may have posed a risk to their safety. When Subject 1 turned the TASER on him/her, Officer A’s assessment was that his/her body was going to shut down, that he/she would be incapacitated, and that Subject 1 may seriously injure or kill him/her. When Subject 1 surrendered outside the residence, Officer A determined the need to advise CD that officers needed help.

**Time** – Sergeants A and C utilized time upon arriving at the scene to formulate a tactical plan and divide responsibilities. Sergeant A began asking officers at scene to direct him/her to the officers involved in the OIS. Sergeant A determined that he/she would monitor Officers A and B. Sergeant C determined that he/she would oversee the ongoing tactical situation. Sergeant C formed teams to locate the children, look for victims, and secure the OIS scene. Sergeant C utilized time to ensure the team members gathered the appropriate equipment prior to entering the residence, subsequent to the OIS.

**Redeployment and/or Containment** – After observing the handgun inside the vehicle, Officers A and B attempted to contain Subject 1 in the parking lot; however, the officers' actions are more aptly described as apprehension.

**Other Resources** – Observing that Officer A was struggling to control Subject 1, Officer B requested backup units to respond to their location. Following the OIS, Officer A advised CD that officers needed help.

**Lines of Communication** – When Officers A and B exited their police vehicle to conduct a “foot beat” to address “violations,” they did not advise Communications CD of their location at that point.

Believing that Subject 1 was trying to discard contraband, Officer B told Officer A “toss, toss”; however, Officer B was not sure Officer A heard him/her. Looking inside the vehicle, Officer B observed a handgun on the rear seat. While Officer B believed that Subject 1 had discarded the handgun, he/she did not advise CD of their location at that point. According to Officer B, he/she told Officer A to “grab him,” referring to Subject 1. According to Officer A, Officer B “patted” him/her and “gestured” to detain Subject 1. Based on his/her partner’s demeanor, Officer A believed that Officer B had observed “something significant within the vehicle,” possibly a handgun. After returning to the vehicle, Officer B advised CD of their location.

Observing that Officer A was struggling to control Subject 1, Officer B requested backup units to respond to their location. Officer B also verbalized with Subject 1 by telling him to stay calm and to comply with Officer A. Officer A advised Subject 1 that if he continued to resist, he could be tased. During his/her repeated contacts with Subject 1, Officer A directed Subject 1 to stop fighting and follow his/her directions. Following the OIS, Officer A advised CD that officers needed help.

The BOPC was critical of Officers A and B’s disregard for their predetermined roles and their lack of a tactical plan upon entering the parking lot. Officer A stated that Officer B drove their police vehicle while Officer A was the passenger. As the passenger, Officer A believed he/she would be the cover officer and in charge of communications, as well as the MDC, while Officer B would be the contact officer. Despite this belief, Officer A walked past Officer B to initiate contact with Subjects 1 and 2, without broadcasting the officers’ Cod Six location or advising his/her partner of his/her intentions. Officer B stated that he/she was usually responsible for communications even when he/she was the driver officer. On the night in question, Officer B was delayed in broadcasting their Code Six location.

The BOPC was critical of a lack of communication between Officers A and B. When Officer B discovered the handgun in the vehicle, he/she directed Officer A to detain Subject 1 but gave no verbal indication of what he/she had observed. Officer B did not create or discuss a plan with Officer A for detaining Subject 1 and did not create a plan to address the presence of the handgun or the people moving towards the

vehicle. The BOPC was also critical of the officers' failure to advise CD that Officer A was in foot pursuit.

The BOPC was critical of Officers A and B's failure to transition to containment mode. The BOPC noted that Officer B knew Subject 1 from a prior arrest and could have apprehended him later. The BOPC felt the officers should have transitioned to containment mode once Subject 1 fled, broadcast his direction of travel, and remained together in the parking lot to secure the handgun. The BOPC was also critical of Officer A's decision to engage Subject 1 in apprehension mode and enter an unknown residence. The BOPC was further critical of Officer B's decision not to immediately join his/her partner in the foot pursuit. The BOPC opined that the officers' decisions unnecessarily placed each other in danger.

The BOPC discussed redeployment opportunities within this incident. Officer A had many opportunities to redeploy and create distance between him/herself and Subject 1. However, Officer A did not create distance and instead approached Subject 1 repeatedly during the ongoing incident. Creating distance would have provided Officer A with more time to request assistance, create a plan, and gather more information from Officer B.

- The BOPC noted the following tactical considerations:

1. **Code Six** (Substantial Deviation, without Justification – Officers A and B)

While on routine patrol inside the housing development, Officers A and B observed several people congregating in a parking lot known for gang activity. Officers A and B commonly monitored parking lots inside this area and knew that gang members engaged in criminal activity inside the development. Officer A observed "three individuals" he/she knew did not live within the development. Two of the people the officers observed, Subjects 1 and 2, were known criminal street gang members. Officer A had recently arrested Subject 2 for a weapons charge, and Officer B had arrested Subject 1 for interfering with a police investigation. Officer B also observed Subject 1 make a tossing motion towards a parked vehicle. To address "violations" they had observed, Officers A and B decided to conduct a "foot beat" and exited their police vehicle. Believing he/she would be conducting consensual encounters; Officer A did not advise CD of the officers' location at that point.

After exiting his/her police vehicle, Officer B approached the vehicle he/she had seen Subject 1 make a tossing motion towards. Illuminating the vehicle's interior, Officer B saw the handgun on the rear seat. While Officer B believed that Subject 1 had discarded the handgun, he/she did not advise CD of their location at that point. Instead, Officer B directed Officer A to detain Subject 1 and then returned to the vehicle before advising CD of their location. According to the FID investigation, approximately 35 seconds elapsed between the officers' arrival in the parking lot, and when Officer B broadcast their Code Six location.

The BOPC noted the expectation of officers who are making public contact to place themselves Code Six. The BOPC noted that when Officers A and B drove into the parking lot, they observed two known gang members they had previously arrested, and who may have been trespassing in the development. The BOPC also noted that Officer B had observed Subject 1 make a tossing motion towards the vehicle. When the officers exited their vehicle, their stated intention was to conduct a foot beat and engage in consensual encounters; however, they did not place themselves Code Six. Believing that Subject 1 may have discarded contraband in the vehicle, Officer B went to investigate while Officer A approached Subject 2; neither officer placed themselves Code Six at that point. The BOPC determined that the officers did not place themselves Code Six until after Officer B returned to the vehicle and Officer A approached Subject 1 to detain him, approximately 35 seconds after the officers' arrival in the parking lot.

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

**2. Tactical Planning/Communication** (Substantial Deviation, without Justification – Officers A and B)

Prior to approaching Subject 1, Officers A and B did not create a plan for contacting Subject 1, a known gang member. While Officer B recalled verbalizing to his/her partner, "toss, toss," as they exited their police vehicle, Officer B was not sure Officer A heard, nor did he/she attempt to clarify what observations, if any, Officer A may have made in relation to Subject 1. After exiting their police vehicle, Officer B approached the vehicle while Officer A approached the vehicle. Observing the handgun inside the vehicle, Officer B elected not to advise Officer A of his/her discovery. Officer B explained that he/she did not want to alert nearby people to the handgun, fearing that the people may access and utilize it against the officers. While Officer B believed he/she told Officer A to "grab him," referring to Subject 1, Officer A, believed Officer B "patted" him/her and "gestured" to detain Subject 1.

The BOPC was critical of Officer B's decision to not clearly communicate the presence of the handgun to his/her partner. The BOPC discussed Officer B's statements regarding his/her fear of people in the parking lot learning about the presence of the handgun and utilizing it against the officers. Officer B's decision prevented Officer A from having knowledge of the circumstances and the potential of a deadly threat nearby. Additionally, the BOPC was critical of Officers A and B's failure to create a plan prior to attempting to initiate a detention. The BOPC determined there was a reasonable amount of time to create a plan during the initial portion of the incident.

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

**3. Contact/Cover Roles** (Substantial Deviation, without Justification – Officers A and B)

While Officer A believed that as the passenger officer he/she was responsible for communications and monitoring their police vehicle's MDC, Officer B said that he/she is usually responsible for communications when he/she and Officer A were working together. While both officers believed they were cover and communications, both acted as contact officers as they conducted independent investigations in the parking lot. While Officer A knew Officer B was "canvassing" or was going to "try to make contact with somebody," Officer A elected to simultaneously contact Subject 2.

Directing Officer A to detain Subject 1, Officer B elected to return to the vehicle, while Officer A approached Subject 1. As Officer A struggled with Subject 1 in the parking lot, Officer B briefly assisted before returning to the vehicle. When Subject 1 fled, Officer A pursued him/her on foot while Officer B remained with the vehicle. As Officer A pursued Subject 1 through the development, he/she repeatedly closed distance on Subject 1 without Officer B present. When Subject 1 entered the residence, Officer A pursued him inside without Officer B present. While Officer A believed Officer B was behind him/her during the foot pursuit, he/she did not verify if Officer B was present.

The BOPC was critical of Officers A and B's decision to conduct two independent investigations simultaneously. The BOPC determined that Officers A and B should have clearly designated their roles prior to exiting the police vehicle. The BOPC determined that without a clear understanding of their roles, both officers acted as contact officers, leaving them both without the benefit of a cover officer. Additionally, the BOPC determined that when Officer A approached Subject 1 to detain him, Officer B became the cover officer. The BOPC noted that as cover officer, Officer B should have alerted the contact officer, Officer A, to the presence of the handgun.

The BOPC was critical of Officer A's decision to pursue Subject 1 without Officer B. The BOPC considered Officer A's statement that he/she believed Officer B was behind him/her for the duration of the foot pursuit. However, Officer A did not verify Officer B's presence and did not observe him/her at any time during his/her pursuit of Subject 1 or subsequent non-lethal, less-lethal, and lethal uses of force. As Officer A had the ability to verify whether Officer B was present during the foot pursuit, the BOPC determined it was not a reasonable choice to pursue Subject 1 without the benefit of a cover officer.

The BOPC was critical of Officer B's decision to return to the vehicle instead of remaining with Officer A while he/she attempted to subdue Subject 1 in the parking lot. The BOPC was also critical of Officer B's decision to remain in the parking lot while Officer A chased Subject 1 on foot, disregarding his/her duty as a cover officer. The BOPC determined Officer B's decision was not a reasonable choice and placed Officer A in unnecessary danger as he/she attempted to subdue a violent suspect.

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

**4. Foot Pursuit Tactics** (Substantial Deviation, without Justification – Officers A and B)

When Subject 1 fled, Officer A chased him alone. While Officer B observed Officer A run after Subject 1, he/she did not follow and neither officer broadcast that Officer A was in foot pursuit. Instead of following Officer A, Officer B remained in the parking lot monitoring the vehicle and a pedestrian gate that he/she believed Subject 1 would try to access by doubling back on his path. Officer B made repeated attempts to retrieve the handgun from the vehicle but was unsuccessful. Officer A did not verbally communicate his/her intention to chase Subject 1 to his/her partner, and Officer B did not tell his/her partner that he/she was going to remain in the parking lot. Approximately 54 seconds elapsed between the time Officer A pursued Subject 1 from the parking lot and when Officer B followed.

The BOPC was critical of Officer B's decision to remain in the parking lot after observing Officer A engage in a foot pursuit. The BOPC discussed Officer B's articulation for remaining in the lot. Officer B, prior to the foot pursuit, had observed Subject 1 resist Officer A and sweep his/her legs, causing Officer A to fall to the ground. Despite his/her observations, Officer B determined that he/she would remain in the parking lot to monitor the handgun while Officer A pursued Subject 1. The BOPC opined that Officer B placed more importance on the handgun than on remaining with Officer A. The BOPC determined that Officer B's decision unnecessarily placed Officer A in danger.

The BOPC was also critical of Officer A's decision to pursue Subject 1 without Officer B. The BOPC considered Officer A's statement that he/she believed Officer B was behind him/her for the duration of the foot pursuit. However, Officer A did not verify Officer B's presence and did not observe him/her at any point during the foot pursuit. As Officer A had the ability to verify whether Officer B was present during the foot pursuit, the BOPC determined it was not a reasonable choice to pursue Subject 1 alone. The BOPC also determined it was not a reasonable choice to pursue Subject 1 into the residence. As Officer A did

not know if Subject 1 was armed, the BOPC would have preferred that Officer A had contained the residence and waited for additional resources.

The BOPC was further critical of Officers A and B's failure to advise CD that Officer A was in foot pursuit. The BOPC discussed that during the foot pursuit, Officer A repeatedly approached Subject 1 and entered the residence without advising CD that he/she was chasing Subject 1. Because Officers A and B did not broadcast their foot pursuit, responding officers were unaware of Officer A's exact location.

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

**5. Situational Awareness (Substantial Deviation, without Justification – Officer A)**

The BOPC was critical of Officer A's decision to follow Subject 1 into the residence. The BOPC would have preferred that Officer A had set up containment around the residence as opposed to entering the residence. The BOPC considered Officer A's desire to protect the children inside the residence; however, Officer A also believed Subject 1 was going to run out of the residence via the back door. The BOPC determined that Officer A's statement regarding his/her desire to protect the children conflicted with his/her belief that Subject 1 was going to flee the residence. The BOPC believed that Officer A's actions were not reasonable.

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

**6. Separation (Substantial Deviation, without Justification – Officer B)**

With Subject 1 in custody, Officer B left Officer A alone, returned to the vehicle, and discovered that the handgun was gone. Joined by responding officers, Officer B returned to his/her partner's location.

The BOPC noted that when Officer B left his/her partner alone with Subject 1 outside the residence, an agitated group was starting to form nearby. While Officer B was concerned about people accessing the handgun in the vehicle, the BOPC was critical of Officer B's decision to leave Officer A alone. The BOPC would have preferred that Officer B had sent a responding unit to secure the vehicle. The BOPC determined that Officer B's decision unnecessarily left Officer A in a dangerous situation.

Based on the totality of the circumstances, the BOPC determined that Officer B's actions were a substantial deviation, without justification, from approved Department tactical training.

- In conducting an objective assessment of this case, the BOPC determined that Officers A and B's tactics substantially deviated, without justification, from Department policy and training, requiring a finding of Administrative Disapproval.

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

Officers A and B were to attend a Tactical Debrief, where the specific identified topics would be discussed.

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

## **B. Drawing and Exhibiting**

- **Officer A**

### **First Occurrence**

According to Officer A, during the "fight" for his/her TASER, he/she was feeling the TASER's "full effect." Officer A described the TASER's effect as "extreme pain through the entire left side" of his/her body. Officer A believed his/her "entire body was going to shut down." Officer A believed that were his/her body to shut down, Subject 1 could inflict "serious bodily injury" or even "kill" him/her. In response, Officer A unholstered his/her service pistol with his/her right hand, holding it in a close contact position, while simultaneously holding onto the TASER with his/her left hand.

### **Second Occurrence**

After Officer A discharged his/her service pistol, Subject 1 ran from the residence through the back door. Officer A holstered his/her service pistol and chased Subject 1. Officer A exited the residence and observed Subject 1 stop and appear to hesitate. Officer A was no longer equipped with his/her TASER and was unsure if Subject 1 was going to continue to fight. Unsure if Subject 1 was still armed with the TASER or another weapon, Officer A unholstered his/her service pistol with his/her right hand while reaching for his/her police radio with the other. Officer A held his/her service pistol in the low-ready position, with his/her finger along the frame, and ordered Subject 1 to get down on the ground.



The BOPC conducted a thorough evaluation of Officer A's first drawing and exhibiting of his/her service pistol. The BOPC noted that when Subject 1 took hold of Officer A's TASER and applied it to his/her left leg, Officer A felt extreme pain through "the entire left side" of his/her body and believed his/her "entire body was going to shut down." The BOPC further noted that Officer A believed if his/her body were to "shut down," he/she could be seriously injured or killed by Subject 1. The BOPC also noted that Subject 1 had overpowered Officer A in the parking lot and was overpowering him/her in the residence. Based on the surrounding circumstances, the BOPC determined Officer A reasonably believed that the situation could escalate to the point where deadly force may be justified.

The BOPC also conducted a thorough evaluation of Officer A's second drawing and exhibiting of his/her service pistol. The BOPC noted that at the time of Officer A's second drawing and exhibiting, he/she was unsure if Subject 1 had the TASER, another weapon, and/or was going to continue to fight. The BOPC felt it reasonable for Officer A to believe Subject 1 was possibly armed and may continue to fight. Based on the surrounding circumstances, the BOPC determined Officer A reasonably believed that the situation could 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 Officer 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 Officer A's drawing and exhibiting of a firearm, both occurrences, to be In Policy.

### C. Non-Lethal Use of Force

- **Officer A – Firm Grips (5 applications), Physical Force (5 applications), Knee Strike (1 application).**

According to Officer A, he/she asked Subject 1 to place his hands behind his back but saw Subject 1 was "hesitant." Officer A told Subject 1 that he/she would explain the reason for his/her detention after Subject 1 complied. Officer A "grabbed" Subject 1's right wrist and told Subject 1 to put his cellular phone down (**Firm Grip-1**). Officer A then applied firm grips to both of Subject 1's hands and pulled them behind Subject 1's back (**Firm Grip-2, Physical Force-1**); Subject 1 resisted and was able to pull free of Officer A's grip.

Utilizing firm grips, Officer A was able to pull Subject 1's hands back behind his back (**Firm Grip-3, Physical Force-2**). Subject 1 continued to resist and again pulled free from Officer A's grip. Subject 1 then extended his arms straight above his head. To control Subject 1, Officer A passed his/her arms under Subject 1's arms from behind, grabbed Subject 1's hands and attempted to pull Subject 1's hands behind

his back (**Firm Grip-4, Physical Force-3**). Unsuccessful, Officer A moved his/her (Officer A's) hands to the back of Subject 1's head/neck and attempted to lock his/her (Officer A's) fingers (**Physical Force-4**). Because Officer A was holding his/her flashlight in his/her right hand, he/she (Officer A) was unable to lock his/her fingers.

When asked by FID investigators if he/she was choking Subject 1, Officer A replied, "No."

When asked by FID investigators if he/she placed his/her arms around Subject 1's neck, Officer A replied, "No, sir." When asked by FID investigators if his/her hands were around Subject 1's neck, Officer A clarified that his/her hands were solely on the back of Subject 1 neck.

According to the FID investigation, Officer A attempted to "grab" Subject 1 while inside the residence. Officer A described being "attached" to Subject 1 as he/she fought Subject 1 over possession of his/her TASER (**Firm Grip-5 and Physical Force-5**).

According to Officer A, as he/she and Subject 1 struggled for possession of the TASER, he/she attempted to strike Subject 1 with his/her knee; however, the strike was ineffective, possibly due to their proximity. Officer A did not recall what part of Subject 1's body he/she attempted to strike with his/her knee (**Knee Strike**).

The BOPC conducted a thorough evaluation of Officer A's use of non-lethal force. The BOPC noted that when Officer A approached Subject 1, he/she believed that Subject 1 was or had been in possession of a handgun. The BOPC discussed Subject 1's resistance when Officer A initiated contact. The BOPC noted that Subject 1 ignored Officer A's verbal commands and physically resisted. The BOPC noted that Officer A continued to verbalize and to attempt to de-escalate the situation; however, Subject 1 continued to resist. The BOPC determined it was evident Officer A did not place pressure on Subject 1 head or neck area. When Subject 1 fled on foot, Officer A chased him into a residence, where a struggle ensued for Officer A's TASER. As Officer A struggled to maintain control of his/her TASER, Officer A utilized a firm grip, physical force, and a knee strike. The BOPC noted that Subject 1 had already overpowered Officer A once and was gaining control of Officer A's TASER. The BOPC determined that Officer A's use of non-lethal force was proportional and objectively reasonable.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe the applications of non-lethal force would be proportional and objectively reasonable to overcome Subject 1's resistance.

Therefore, the BOPC found Officer A's non-lethal use of force to be In Policy.

- **Officer B – Firm Grip (1 application)**

As Officer A struggled with Subject 1, Officer B briefly grabbed Subject 1's right wrist area and attempted to calm Subject 1 (**Firm Grip**). Observing a group of people approach the vehicle, Officer B released his/her grip on Subject 1. When asked by FID investigators if he/she grabbed Subject 1, Officer B replied, "That I don't remember. I don't recall." While Officer B did not recall making physical contact with Subject 1, Officer A's BWV footage depicted Officer B's firm grip.

The BOPC conducted a thorough evaluation of Officer B's use of non-lethal force. The BOPC discussed Officer B's observations and his/her belief that Subject 1 had discarded a handgun. The BOPC noted that Officer B observed Subject 1 resisting Officer A and attempted to calm him down; however, Subject 1 continued to resist. The BOPC noted that per Officer A's BWV footage, Officer B appeared to briefly take hold of Subject 1's right wrist area. The BOPC determined that Officer B's firm grip was reasonable given Subject 1's actions and level of resistance.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B while faced with similar circumstances, would reasonably believe the applications of non-lethal force would be proportional and objectively reasonable to overcome Subject 1's resistance.

Therefore, the BOPC found Officer B's non-lethal use of force to be In Policy.

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

- **Officer A – TASER, - Probe Mode (1 deployment), Drive-Stun Mode (3 deployments)**

Officer A believed that he/she (Officer A) activated the TASER approximately four to five times during his/her interaction with Subject 1 inside the residence. According to the FID investigation, Officer A's TASER was activated a total of five times during the entire incident, once in probe mode and four times in drive-stun mode. It is unknown if the TASER contacted anyone during the fifth activation (the fourth activation in drive-stun mode).

#### **First Occurrence – Sole deployment in Probe Mode, from approximately 3-5 feet, targeting Subject 1's naval area.**

During the foot pursuit, Officer A observed Subject 1 stop and lay prone on the ground. Subject 1 got up, turned towards Officer A, and started walking towards him/her. Due to Subject 1 having already "overpowered him/her once," Officer A drew his/her TASER. Believing Subject 1 intended to fight, Officer A deployed his/her TASER in the probe mode from approximately three to five feet, targeting Subject 1's naval area. Subject 1 turned and fled towards a residence; Officer A believed his/her TASER deployment was ineffective.

**Second Occurrence – First deployment in Drive-Stun mode, from approximately 4 feet, targeting Subject 1’s left shoulder.**

According to Officer A, Subject 1 stopped running when he reached the residence’s porch. Subject 1 stood near the front door of the residence and appeared to “surrender” as Officer A “gave chase” and closed the distance, holding his/her TASER in his/her left hand. Officer A and Subject 1 were standing “fairly close” to each other when Subject 1 turned “rapidly” towards Officer A. Believing that Subject 1 intended to fight, Officer A deployed his/her TASER in drive-stun mode to Subject 1’s left shoulder from an approximate distance of four feet for a five second activation.

**Third Occurrence – Second deployment in Drive-Stun Mode, from a close contact position, targeting Subject 1’s left arm.**

According to Officer A, Subject 1 turned and entered the residence. As Officer A chased Subject 1 through the residence, he/she observed Subject 1 run towards the back door. Near the back door, Officer A, holding his/her TASER in his/her left hand, attempted to “grab” Subject 1 with his/her right hand while telling him to “stop fighting;” Subject 1 turned and faced Officer A. In response, Officer A deployed his/her TASER in drive-stun mode to Subject 1’s left arm from a close contact position; the TASER was ineffective.

**Fourth Occurrence – Third deployment in Drive-Stun Mode, from a close contact position, targeting Subject 1’s torso.**

As they struggled, Subject 1 began pushing Officer A back towards the living room area where Officer A had last seen the children. As the struggle continued, Subject 1 took hold of the front of Officer A’s TASER with both hands. In response, Officer A attempted a third deployment of his/her TASER in drive-stun mode to Subject 1’s torso area; the TASER was ineffective.

The BOPC conducted a thorough evaluation of Officer A’s use of less-lethal force. In conducting their evaluation, the BOPC considered Subject 1’s aggressive actions towards Officer A throughout the incident. The BOPC discussed Officer A’s decision to utilize his/her TASER in Probe Mode on Subject 1. The BOPC noted that while struggling with Subject 1 in the parking lot, Officer A had provided a partial less-lethal warning as Subject 1 physically resisted. The BOPC also noted that when Officer A caught up to Subject 1 after he fled, Subject 1 advanced on Officer A. Due to Subject 1’s violent resistance in the parking lot, the BOPC determined it was reasonable for Officer A to believe that Subject 1 posed an immediate threat of violence or physical harm.

The BOPC discussed Officer A’s decision to utilize his/her TASER in drive stun mode on Subject 1 while he/she was standing on the porch of the residence. The

BOPC noted that as Officer A approached Subject 1, Subject 1 turned “rapidly” toward him/her. The BOPC also noted that Subject 1 had already overpowered Officer A in the parking lot, had advanced on Officer A during the foot pursuit, and was continuing to resist on the porch. The BOPC determined it was reasonable for Officer A to believe that Subject 1 posed an immediate threat of violence or physical harm.

The BOPC discussed Officer A’s utilization of the TASER in drive stun mode on Subject 1 inside the residence. The BOPC noted that when Officer A attempted to “grab” Subject 1, Subject 1 turned, faced Officer A, and continued to resist. In response, Officer A deployed the TASER to Subject 1’s arm. The BOPC also noted that following the deployment, Subject 1 continued to resist and began fighting Officer A for possession of the TASER. In response, Officer A attempted a third deployment of his/her TASER in drive-stun mode to Subject 1’s torso area. Based on Subject 1’s continuing resistance, and his attempt to disarm Officer A of his/her TASER, the BOPC determined it was reasonable for Officer A to believe Subject 1 was violently resisting and posed an immediate threat of violence or physical harm.

The FID investigation revealed that while there was a total of four deployments, Officer A’s TASER was activated a total of five times, the final activation being inside the residence. FID investigators presented to the BOPC that it was likely during the fifth TASER occurrence that Subject 1 was attempting to disarm Officer A of the TASER. The BOPC noted that Subject 1 stopped violently resisting only after Officer A utilized force. The BOPC determined that had Officer A been responsible for the fifth activation, it would have been reasonable given Subject 1’s violent resistance.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe the applications of less-lethal force would be proportional and objectively reasonable to overcome Subject 1’s resistance.

Therefore, the BOPC found Officer A’s less-lethal use of force to be In Policy.

## **E. Lethal Use of Force**

**Background** – According to the FID investigation, the round fired from Officer A’s service pistol had a downward trajectory. While the FID Firearms Analysis Unit (FAU) was unable to establish any further information on the direction of Officer A’s round, FAU was able to determine that the round struck the floor near the back door in the residence’s kitchen/dining area. According to the FID investigation and FAU analysis, Officer A was facing the back door, with his/her back towards the living room area when he/she discharged his/her round towards Subject 1; Subject 1 stood between Officer A and the back door. Prior to discharging his/her round, Officer A last saw the children sitting in the living room.

- **Officer A** – (pistol, one round)

Feeling the effects of the TASER, Officer A believed that he/she was fighting for his/her life as he/she fought with Subject 1 for control of the TASER. Fearing that Subject 1's use of the TASER would lead to him/her being "incapacitated," allowing Subject 1 to seriously injure or "kill" him/her, Officer A discharged one round from his/her service pistol, from a "close contact" position, at Subject 1's "lower torso area," in a "westbound" direction. Officer A's round missed Subject 1, striking the floor in the combined dining room kitchen area near the back door. According to Officer A, he/she utilized the close contact shooting position to minimize Subject 1's access to his/her service pistol.

The BOPC noted that the Use of Force Review Board (UOFRB) conducted a thorough review and analysis of the reasonableness, necessity, and proportionality of Officer A's use of lethal force. The UOFRB noted that when Officer A used lethal force, Subject 1 was violently resisting by attempting to disarm Officer A of his/her TASER and deploying it in drive-stun mode against Officer A's leg. The TASER deployment by Subject 1 on Officer A caused Officer A to feel intense pain; Officer A believed his/her entire body was going to shut down and he/she would become incapacitated, allowing Subject 1 to seriously injure or kill him/her. Fearing for his/her life, Officer A utilized his/her service pistol to discharge one round at Subject 1's torso to stop what he/she perceived to be an imminent threat of serious bodily injury or death.

While the UOFRB majority was critical of Officer A's tactics preceding the lethal use of force, the UOFRB majority took into consideration Subject 1's level of resistance throughout this incident. The UOFRB majority noted that Subject 1 violently resisted Officer A in the parking lot, sweeping his leg, and causing Officer A to fall to the ground. The UOFRB majority also noted that Subject 1 repeatedly appeared to surrender before turning and engaging Officer A. The UOFRB majority further noted that Subject 1's violent resistance culminated in him attempting to disarm Officer A of his/her TASER and deploying it in the drive-stun mode against Officer A's leg. While the UOFRB majority opined that Officer A's tactics preceding the lethal use of force were a substantial deviation, without justification, from Department policy and training, the UOFRB majority opined that Officer A's belief that his/her entire body was going to shut down and he/she would become incapacitated, allowing Subject 1 to seriously injure or kill him/her, was reasonable. The UOFRB majority determined that an officer with similar training and experience as Officer A would reasonably believe Subject 1's actions presented an imminent threat of death or serious bodily injury and that the use of deadly force was proportional, objectively reasonable, and necessary.

The UOFRB minority considered Officer A's tactics and decision making to be so deficient as to have precipitated the lethal use of force. The UOFRB minority opined that Officer A did not fully utilize opportunities for de-escalation including Planning, Assessment, and Lines of Communication. The UOFRB minority also considered

the fact that Officer A chose to engage in a foot pursuit of the Subject 1 alone, without his/her partner, further placing him/her at a tactical disadvantage. The UOFRB minority pointed out that Officer A closely pursued Subject 1, utilizing the TASER on multiple occasions as Subject 1 turned to face him/her. The UOFRB minority determined that during the foot pursuit, Officer A made no attempts to re-assess, re-deploy, or transition to containment mode. The UOFRB minority further noted that Officer A's choice to pursue Subject 1 into the residence alone further exposed him/herself to unknown dangers and risks. The UOFRB minority determined that while at the time of the OIS, Officer A reasonably believed there was an imminent threat of death or serious bodily injury, the tactical decisions made by Officer A leading up to the use of deadly force were at odds with approved Department tactical training.

In the BOPC's overall assessment of this incident, the BOPC noted that from the inception, Officer A deviated from his/her predetermined role as cover officer when he/she approached Subject 2. As the incident progressed, Officer A attempted to detain Subject 1 alone. When Subject 1 fled, Officer A pursued him without formulating a tactical plan with Officer B or ensuring that Officer B was present. The BOPC noted that during his/her continuing efforts to apprehend Subject 1, Officer A repeatedly failed to assess the risk that Subject 1 posed to his/her (Officer A's) safety. Despite the obvious risk to his/her safety, Officer A continued to pursue Subject 1 in apprehension mode without Officer B.

The BOPC noted that the first time Subject 1 stopped running he appeared to surrender; however, that changed when Subject 1 stood and approached Officer A, resulting in a less-lethal use of force. Following the less-lethal use of force, Subject 1 ran to the porch of a nearby residence and again appeared to surrender. Instead of creating distance and seeking cover, which would have afforded Officer A the benefit of time, Officer A chose to close distance and attempt to apprehend Subject 1 alone, despite having already been overpowered by Subject 1. Again, Subject 1 resisted, resulting in a less-lethal use of force. While Officer A stated he/she believed Officer B was behind him/her, Officer A made no efforts to confirm that Officer B was present prior to approaching Subject 1.

Subject 1 then entered an occupied residence. Instead of containing the residence and requesting additional resources, Officer A continued to pursue Subject 1 in apprehension mode. While the BOPC understood that Officer A was concerned for the safety of the children inside the residence, Officer A stated that he/she believed Subject 1 was going to run through the residence and out the back door. The BOPC would have preferred that instead of pursuing Subject 1 into the residence, Officer A had taken a position of cover outside the residence and called the children to him/her, or in the alternative, entered the residence solely to guard the children until Subject 1 had fled out the back door.

Inside the residence, Officer A elected to grab Subject 1 as he approached the back door; Officer A was still alone and had not confirmed that Officer B was present prior

to approaching Subject 1. The OIS occurred while Officer A was struggling with Subject 1 inside the residence, near the back door. While the available evidence supports that Officer A reasonably believed that there was an imminent threat of death or serious bodily injury at the time of the OIS, the BOPC believed the tactical decisions made by Officer A leading up to the use of deadly force were at odds with tactical training. Instead of approaching Subject 1, Officer A should have maintained his/her distance, sought cover, obtained additional resources, and attempted to give Subject 1 commands to surrender. By failing to assess the safety risks, Officer A failed to assess the safety risks posed by Subject 1 and repeatedly attempted to apprehend him without additional resources present. Further, Officer A did not attempt to de-escalate the situation.

The BOPC was also concerned by the fact that during the foot pursuit, Officer A did not advise CD of his/her activity or location. This is especially concerning as he/she entered a two-story residence at night without knowing the true number of occupants. The BOPC determined that as a result of inappropriate tactical decision-making, Officer A unnecessarily placed him/herself at a significant tactical disadvantage. This tactical disadvantage unnecessarily exposed Officer A to Subject 1's assaultive behavior, culminating in Officer A's use of lethal force.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would have reasonably believed that Subject 1's actions presented an imminent threat of death or serious bodily injury; however, when assessed in light of the series of substandard tactical decisions leading up to Officer A's OIS, and the nexus between those decisions and the circumstances under which Officer A found him/herself compelled him/her to fire his/her weapon, the use of lethal force by Officer A was inconsistent with the Department's Use of Deadly Force policy.

Thus, the BOPC found Officer A's lethal use of force to be Out of Policy.