

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

OFFICER-INVOLVED SHOOTING – 001-20

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

Hollenbeck	1/5/20		
------------	--------	--	--

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

Officer A	5 years, 5 months
-----------	-------------------

Reason for Police Contact

Northeast Patrol Division officers conducted a pedestrian stop for a narcotics investigation. As the officers initiated contact with the Subject, a foot pursuit ensued. At the termination of the foot pursuit, the Subject removed a semi-automatic pistol from his waistband area, and an officer-involved shooting occurred.

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

Subject: Male, 23 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; 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 November 10, 2020.

Incident Summary

On January 4, 2020, in the late evening hours, security cameras at two local businesses recorded the Subject 's activities near an intersection for an approximate ninety-minute time span. The Subject was accompanied by an unidentified male and female during this time.

During that time, all three individuals stood near the front of the business at the northeast corner. Their attention appeared to be focused on the vehicle and pedestrian movement in the area, as they paced about the area and repeatedly looked up and down the streets. While they were at the location several people approached them, made brief contact with them, and then left the area. Occasionally, the Subject made hand gestures directed at the occupants of vehicles driving past his location.

A short time later, a white, four-door hatchback vehicle arrived in front of the business. The unidentified male and female entered the vehicle and left the area. The Subject remained in front of the business and near the northeast corner of the intersection for approximately five minutes. The Subject then entered the gate of a nearby residence and took a seat on the sidewalk steps in front of the location. For the next twenty minutes, the light from Subject's cell phone screen is intermittently visible on the video from the business security camera as the Subject used the phone while he sat on the steps.

Uniformed Police Officers A (driver) and B (passenger) had worked as partners on two occasions during the past three months. According to Officer A, at the start of watch, the officers discussed tactics, contact and cover roles, the foot pursuit concepts of apprehension versus containment, communication roles, and de-escalation techniques. According to Officer B, at the start of watch, the officers discussed tactics, the firearms they were carrying, lethal and less-lethal weapons, the foot pursuit concepts of containment mode and apprehension mode, and Code Six broadcasts.

Shortly after midnight, (January 5, 2020), Officer A viewed a video from a mobile app on his/her personal cellular telephone. The video was posted on the Instagram social media website.

The video was approximately nine seconds long and the Instagram user profile was displayed. According to Officer A, he/she did not know who posted the video, and he/she did not have any prior conversations with that person. The video depicted an individual from the chest down, seated on concrete steps behind a white rod iron fence adjacent to the street. As the video progressed, that person raised his shirt, showing his waistband, and exposing the grip and a portion of the slide of a semi-automatic pistol. The pistol was protruding from the person's right front pants pocket. The person then made a hand gesture with his fingers. According to Officer A, the hand gesture was consistent with a gang hand sign. As the video continued, it panned out past the fence toward an intersection where the front of a business was visible in the background.

According to Officer A, when he/she viewed the video, he/she recognized that it was taken from a position at an apartment complex near an intersection he/she was familiar with. Officer A stated, that he/she recognized the white fence in front of the apartment building and the business across the street from the apartment building.

Officer A opined that the post was gang related due to the Instagram profile name and the location depicted in the video. According to Officer A, based on his/her knowledge and experience with gangs, the post inferred that the person was affiliated with a local gang. According to Officer A, the video was posted on the "Stories" feature of the Instagram application, which are displayed for a 24-hour time frame. According to Officer A, the time stamp displayed on the post indicated that it had been posted approximately twelve minutes prior to his/her review.

According to Officer A, he/she told his/her partner about the Instagram post. They discussed the clothing that the person was wearing in the video and that he was possibly armed. According to Officer B, he/she saw Officer A was using an application on his/her phone and Officer A then told him/her that there may be a person at a specific intersection armed with a gun.

According to Officer A, his/her intention was to drive to the area to determine if he/she could identify the person depicted in the Instagram video. According to Officer A, he/she did not request additional units to respond to look for the Subject because he/she did not consider it. Officer A believed that the possibility of the person still being at the location was slim. As Officers A and B drove to the area, they talked about probable cause for contact with a person if they were to be located on private property.

According to Officer A, he/she was familiar the area, which was known for gang and narcotics activity. According to Officer B, as the officers drove toward the area, they also talked about a gun arrest involving a gang member that Officer A had made the week prior to this incident and a homicide that occurred at the intersection in August 2019.

Shortly after midnight, (January 5, 2020) a business CCTV camera captured a recording of a dark colored four door vehicle arriving in front of the business and stopping in the north bound traffic lane. As Officers A and B drove, they observed the Subject standing on the sidewalk in front of a residence. According to Officers A and B, the Subject appeared to be talking to the occupant of a dark colored vehicle that was stopped in the street, facing northbound in the traffic lane.

According to Officer A, he/she smelled the odor of marijuana and he/she observed that the Subject appeared to be smoking marijuana and appeared to be a juvenile. Officer A opined that the Subject was in violation of curfew and smoking marijuana in public. According to Officer A, he/she intended to detain the Subject for further investigation of the narcotics and curfew violations. Officer B stated that he/she and his/her partner intended to detain the Subject for investigation of a possible narcotics transaction.

According to Officer A, he/she told Officer B that he/she saw the Subject smoking something that smelled like marijuana and that the officers were going to talk to him.

Officer A stated that he/she did not immediately recognize that the clothing the Subject was wearing matched the clothing of the person depicted in the Instagram video post. Officer A observed that the Subject did not appear to be dressed down as a gang member, so his/her suspicion of the Subject being armed was a little bit lower.

Officer A stopped the police vehicle, facing south in the center median lane. Officer A exited the vehicle and activated his/her Body Worn Video (BWV) camera as he/she approached the Subject. As Officer B exited the vehicle, he/she did not activate his/her BWV camera. Officers A and B did not broadcast that they had arrived at the location (Code Six) at that time and location. According to Officer A, when he/she and his/her partner discussed tactics at the start of their watch, they pre-planned that when one of them initiated contact with a Subject, it was the other officer's responsibility to make a Code Six broadcast. According to Officer B, he/she thought his/her partner placed them Code Six.

According to Officers A's BWV the dark colored vehicle backed up toward the curb as Officer A approached the Subject. According to Officer B, he/she followed behind Officer A and took a position on the sidewalk between Officer A and the vehicle in a position to monitor the vehicle and provide cover for his/her partner.

Officer A's BWV camera captured the Subject asking if it was okay to smoke a cigarette, to which Officer A replied that it smelled like something other than a cigarette. Officer A then asked the Subject if he was on probation or parole. The Subject took a step toward Officer A and extended his right hand toward him/her. According to Officer A, he/she observed that the Subject had a bulge in his pants pocket. Officer A asked the Subject what he had in his pocket, and the Subject raised his hands up to his chest area and asked, "Why, what do I have?" According to Officer A, it was at that time that he/she began to realize that the Subject was possibly the same person that posted the Instagram video.

Officer A then asked the Subject if he would submit to a pat-down. At that moment, the Subject stated, "I have like sheets" as he simultaneously placed his right hand down on his right front pants pocket. Officer B gave the command, "Don't reach for it." According to Officer A, he/she was unable to determine that the bulge was a gun, however, the Subject's reaction caused him/her to believe that it was a gun.

Officer A attempted to grab ahold of the Subject's arms as he/she gave a command to the Subject to put his hands behind his back. The Subject turned away from Officer A before he/she could get ahold of him and ran away.

According to Officer A's BWV, he/she yelled, "Put your hands behind your back," as he/she unholstered his/her pistol with his/her right hand. According to Officer A, he/she held his/her pistol with a one-handed grip, with his/her trigger finger along the frame and

the pistol pointed in a low-ready position, as he/she chased the Subject. According to Officer B's BWV, as the foot pursuit began, he/she unholstered his/her pistol with his/her right hand. According to Officer B, he/she held it in a one-handed grip, in a low-ready position, with his/her trigger finger along the frame and followed behind his/her partner. According to Officer B, the Subject's actions lead him/her to believe that the Subject may be reaching for a weapon or an item to inflict harm on him/her or his/her partner.

The Subject ran across the street onto the sidewalk and continued north. According to Officer A, as he/she continued to run after the Subject, he/she ran in the street utilizing the cars parked along the west curb for cover and to maintain distance between the Subject and himself/herself. According to Officer B, Officer A and the Subject weaved between the parked cars during the foot pursuit. A review of the officers' BWV determined the officers ran in the street as the Subject ran on the sidewalk.

As Officer A chased the Subject, he/she unholstered his/her radio with his/her left hand and attempted to broadcast a foot pursuit and backup request. A review of Communications Division (CD) recordings of the police radio determined that Officer A's broadcast did not go out.

According to Officer A, he/she intended to pursue the Subject in containment mode while additional resources responded to assist. According to Officer B, the officers were in apprehension mode during the foot pursuit.

The Subject ran west into the driveway of a residence and up to the rear yard gate that was blocked by three trash cans. The foot pursuit covered an approximate distance of 528 feet with a duration of approximately 25 seconds. As Officer A arrived at the apron of the driveway, he/she gave the verbal command for the Subject to put his hands up. According to Officer A, he/she observed the Subject standing facing in a northerly direction, as he removed a gun from his waistband area with his right hand. As the Subject raised the gun up from his waistband area, it was pointed in an easterly direction. According to Officer A, he/she saw the Subject taking the gun out and raising it with his arm fully extended in Officer A's direction. According to Officer A, he/she believed the Subject intended to shoot him/her. Officer A raised his/her gun, with a two-handed grip and fired one shot from an approximate distance of thirty-two feet.

The trajectory evidence determined the bullet hit a plastic trash can next to the Subject, penetrated through and continued west. According to Officer A, he/she targeted the Subject's center mass. The Subject continued to raise the gun up over his shoulder and threw the gun into the rear yard of the residence. Officer A gave the command to "get on the ground" three times, as the Subject went down onto his knees.

According to Officer B's BWV, after the sound of the gunshot occurred, Officer B stopped running and stood in the street next to a parked vehicle, approximately two car lengths from his/her partner. Officer B holstered his/her pistol and unholstered his/her radio, as he/she asked Officer A if that was a "shot fired." Officer B described seeing

Officer A take a shooting stance and he/she described the muzzle flash from Officer A's gun. At the time the shot was fired, Officer A's BWV captured audio of the shot; however, it did not capture Officer A's location and actions at the time the shot was fired.

Officer B broadcast that officers needed help and that shots had been fired. Officer B unholstered his/her pistol and held it in a single handed grip, pointed toward the ground, as he/she moved from the street, onto the sidewalk, south of the driveway. According to Officer B, from his/her position he/she had a line of sight on his/her partner. According to Officer B, he/she paused on the sidewalk to locate the address of the location. The Radio Telephone Operator (RTO) broadcast an "Officer Needs Help Call" and requested a better, more precise location. Officer B responded with a broadcast of a more specific location.

Officer A gave numerous commands to the Subject to lay down on the ground, and the Subject did not comply with the commands. As Officer A walked closer to the Subject, he/she warned the Subject that that he/she would use a TASER as he/she commanded that the Subject put his chest on the ground. The Subject leaned forward, placing his palms on the ground while he remained on his knees. As Officer A gave another command for the Subject to lay down on the ground, the Subject raised back up onto his knees. Officer A, while holding his/her pistol in his/her right hand, unholstered his/her TASER with his/her left hand and gave the Subject another verbal warning that he/she would "tase" him. According to Officer A, he/she was concerned that the Subject would attempt to rearm himself, so he/she unholstered his/her TASER, in an effort to de-escalate the situation.

Officer A activated the red dot sights of the TASER and targeted them on the Subject's torso area. At that time, the Subject complied and laid down in a prone position on his stomach. Officer A holstered his/her pistol and held cover on the Subject with the TASER with the red dot sights targeted on the center of the Subject's back as he/she moved closer. In reviewing Officer B's BWV, Officer B joined Officer A and gave the command, "Don't reach for the gun or whatever you have in your pocket" to the Subject. Officer B held his/her pistol in a single-handed grip, in his/her right hand, in a low-ready position, providing lethal cover for his/her partner; while holding his/her radio in his/her left hand.

Officer A holstered his/her TASER and placed his/her left hand on the Subject's back between his/her shoulder blades. Officer A took hold of the Subject's right arm with his/her right hand and gave the command, "Put your hands behind your back." Officer A guided the Subject's right arm behind his back, and then transitioned his/her hold of the Subject's right wrist to his/her left hand; as he/she unholstered his/her handcuffs with his/her right hand. Officer A placed a cuff on the Subject's right wrist and then one on the left wrist, securing the Subject's hands behind his back. Officer A double locked the handcuffs and began to examine the Subject for injuries as he/she asked him if he "got hit?" According to Officer B, Officer A was on top of the Subject. A review of

Officers A and B's BWV did not capture any images of Officer A kneeling on the Subject's back.

Officer A directed Officer B to get the address of the house they were at. Officer B used his/her flashlight to illuminate the front of the residence to verify the address and broadcast the location. According to Officer B, the Subject was handcuffed, so he/she walked out to the street and turned on his/her flashlight to direct responding officers to their location. Officer B further stated that from his/her position at the end of the driveway he/she had a line of sight on his/her partner.

Northeast Patrol Division Sergeant A broadcast that he/she was responding to the "Help Call," activated his/her BWV camera, the vehicle's lights and siren, and drove Code Three to the call. According to Sergeant A, he/she read the comments of the call, to get a situational awareness, and to determine what was needed at the scene.

Northeast Patrol Division, uniformed Police Officers C and D activated their BWV cameras, responded Code Three to the back-up call, and were the first unit to arrive. As Officer C approached the location, Officer D broadcast that they were Code Six. Officer C parked one house away from the location. As the officers exited their police vehicle, Officer B advised them that the Subject was in custody. Officers C and D ran into the driveway and met with Officer A. Officer A told them that the Subject had thrown the gun into the back yard of the residence.

Officer C walked around the trash cans in front of the gate and lifted the gate up off the hinges and opened it to gain access to the back yard. Officer D took custody of the Subject from Officer A and advised that he/she would take over communications. Officer D directed Officer A to go with Officer C to look for the gun. Officer D broadcast that the incident had been resolved and that the Subject was in custody.

According to Officers Cs' BWV, as he/she and Officer A entered the back yard, Officer A told him/her that there were no additional outstanding suspects. The officers utilized their flashlights to search the area for the gun and discussed requesting a K-9 unit to assist with the search. Shortly thereafter, Officer C located the gun laying on the ground next to a plastic shed in the rear yard. According to Officer C's BWV, he/she repositioned a metal chair approximately two feet to the west, away from the gun, and Officer A told him/her to not move the gun. Officer A walked to Officer C's location and illuminated the gun with his/her flashlight. Officer C advised Officer A that he/she would guard the gun and directed him/her to return to his/her partner.

In reviewing Officer A and D's BWV, when Officer A returned to front of the residence where Officer D was standing in the driveway, Officer D could be heard as he/she advised Officer A to stay by him/herself until a supervisor arrived. Officer D assisted the Subject to his feet and walked the Subject to his/her police vehicle. Officer D conducted a search of the Subject incident to arrest and recovered a gold colored phone and a clear plastic bag containing off-white powder resembling methamphetamine from the

Subject's left front pants pockets. Officer D secured the Subject in the rear seat of his/her assigned police vehicle.

In response to the "Help Call," the following Hollenbeck Patrol Division and Northeast Patrol Division uniformed officers responded with emergency lights and sirens (Code Three) to the "Help Call" and activated their BWV cameras during their response: Police Officers E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, and T.

Uniformed Police Officers U and V activated their BWV and responded Code Three to the "Help Call." Once arriving at the scene, Officer U broadcast that they were Code Six and a requested responding units to stop traffic north of the location. As Officers U and V approached the OIS scene, they located Officers A and B standing near the driveway. Officer A advised that he/she and Officer B needed to be separated. Officer V led Officer B away from the other officers. Officer V asked Officer B if his/her BWV camera was recording and directed him/her to leave it on.

Officer V admonished Officer B to not talk to anyone about the incident and to not view any social media. Officer V gave Officer B a small laminated card, that was produced and distributed by the Los Angeles Police Protective League. The card defined the Public Safety Officers Procedural Bill of Rights Act on one side and the recommended procedure for Public Safety Statements (PSS) on the other side. Officer V advised Officer B to read the card and explained that he/she would be asked to provide a statement at some point. Officer V further explained that Officer B was required to provide the PSS one time only, and that he/she was to not make any other statements or answer any additional questions until he/she had legal representation.

Officer A notified Officer U that an OIS had occurred. Officer U then broadcast on the police radio that an inner and outer perimeter containment needed to be set up. Officer U directed officers to start a crime scene log and secure the inner and outer perimeter with crime scene tape. Officer U made a second broadcast directing units on the perimeter to stop all vehicle traffic from entering or exiting near the OIS scene.

Sergeant A arrived at scene and broadcast that he/she was the Incident Commander (IC). Sergeant A parked and walked to where the OIS occurred, located Officer A, was notified that there was an OIS with only one officer involved, and that the Subject was in custody.

In reviewing Sergeant A's BWV, Sergeant A directed Officer A to standby with Officer G, as he/she assessed the scene and established control of the incident. According to Sergeant A, after talking to Officer A, he/she briefly told Sergeant A that he/she was the only one who shot, and the Subject was in custody. According to Sergeant A, he/she could have continued to ask Officer A the rest of the PSS questions, but time was of the essence and his/her concern at that point was to make sure that everything was set up and organized.

Officer U advised Sergeant A that officers were securing the crime scene and that a crime scene log was initiated. Sergeant A broadcast a request for an additional supervisor to respond to the scene. Sergeant A then directed Officer W to secure the front of the residence where the OIS occurred with crime scene tape and to not allow anyone inside.

Sergeant B responded to the “Supervisor Request,” arrived on scene and met with Sergeant A. Upon being briefed, Sergeant B initiated the separation and monitoring of Officer A. Sergeant B walked Officer A out of the crime scene to his/her police vehicle. Sergeant A established a Command Post nearby.

Northeast Patrol Division Watch Commander, Lieutenant A arrived on scene, made a broadcast on the police radio identifying that he/she was now the Incident Commander. Lieutenant A met with Sergeant A and received a brief of the details of the incident. Sergeant A then took over the monitoring of Officer B from Officer V.

Sergeant B admonished Officer A to not discuss the incident with anyone, unless ordered to by Force Investigation Division (FID). Sergeant B directed Officer A to turn off his/her BWV camera and took possession of the camera. Sergeant B took a PSS from Officer A. Sergeant B transported Officer A to the local police station and monitored him/her. Later that morning, Northeast Patrol Division Sergeant C took over monitoring Officer A until he/she was interviewed by FID investigators.

Lieutenant A admonished Officer B to not talk about the incident with anyone. Lieutenant A directed Hollenbeck Detective Division Night Watch Detective A to take over the monitoring of Officer B. Detective A directed Officer B to turn off his/her BWV camera and give it to Sergeant A. Detective A transported Officer B to the local police station, where they remained until Officer B was interviewed by FID Investigators.

The Department Operations Center (DOC) was notified of the officer-involved shooting incident. The DOC notified FID of the Categorical Use of Force (CUOF).

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	Yes	Yes	Yes	No	No
Officer B	No	Yes	No	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 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. Lethal Use of Force

The BOPC found Officer A's lethal use of lethal 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. It is also recognized 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 and reasonable to do so. When warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the constitutional rights of individuals upon whom unreasonable 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. 1, 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 Force – General. 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.

Use of Force – Deadly. It is the policy of the Department that deadly force shall be used only when necessary in defense of human life. Specifically, deadly force shall only be used to:

- Defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- 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. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

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.

Factors Used to Determine Whether Deadly Force was Necessary. The Department examines the necessity of deadly force by evaluating each situation in light of the particular circumstances of each case, and whether other resources and techniques were reasonably safe and feasible to an objectively reasonable officer.

The Department shall also consider the totality of the circumstances, including the officer’s tactics and decisions leading up the use of deadly force. (Special Order No. 1, 2020, Policy on the Use of Force - Revised.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the

situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation 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. (Tactical De-Escalation Techniques, October 2016.)

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

Regarding planning, de-escalation training states, “Officers should attempt to arrive at scene with a coordinated approach based upon initial information and any pre-existing knowledge of the suspect(s) or the involved officers.” As noted in the Chief’s report, the UOFRB was critical of Officers A and B’s general tactical plan, and it noted that the officers did not request any additional resources prior to attempting to stop a potentially armed suspect and did not notify a supervisor of the information they had obtained about a potentially armed suspect located outside their division of assignment. The BOPC notes that this lack of appropriate planning precluded the officers from arriving on scene with “a coordinated approach based on initial information,” and that it avoidably placed them at a significant tactical disadvantage from the outset of the incident. The officers had ample opportunity to formulate a plan, including making appropriate notifications and requests to coordinate additional resources, but they failed to do so.

Assessment

Regarding assessment, de-escalation training states, "Officers should continually assess the situation as circumstances change and new information is received." Despite Officer A's indication of his/her feeling that it was unlikely that the Subject whom he/she saw on Instagram would still be at the location where he (the Subject) was observed, the fact remains that attempting to locate this individual was the purpose of Officer A's response to the incident location. Upon observing the Subject at that location, Officer A did not appropriately assess the situation and recognize the potential for the Subject to be the armed suspect in question. Once Officer A formed the belief that the Subject was indeed armed, his/her decisions to attempt to make physical contact with the Subject and then to pursue him in a tactically unsound manner did not reflect appropriate continual assessment as the circumstances developed.

Time

Regarding time, de-escalation training states, "Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources." As previously noted, Officers A and B did not use available time to formulate an appropriate plan prior to contacting the Subject. Nor did they take advantage of available time to request appropriate additional resources.

Redeployment and Containment

Regarding redeployment and containment, de-escalation training states, "Redeployment and containment can afford officers the added benefit of time and distance while continuing to maintain control of the situation. The addition of time and distance may give officers the opportunity to re-assess, communicate, request additional resources, or deploy other tactics to reduce the likelihood of injury both to the public and officers while also mitigating any potential ongoing threats."

The UOFRB was critical of Officers A and B's vehicle positioning and pedestrian stop tactics, which had the effect of placing the officers in a tactically disadvantageous position during their initial contact with the Subject. The BOPC considered that these noted concerns unduly exposed the officers to the threat of an armed assault by the Subject and limited the officers' ability to control him when he did not comply with their directions.

When the Subject began to flee on foot, the officers' ability to coordinate any containment was significantly limited by their prior failures to request additional resources and to communicate to anyone where they were or what they were doing. Although Officer A attempted to make a radio broadcast during the foot pursuit (the attempt was determined to be unsuccessful), his/her attempted broadcast did not include a request for officers to establish a perimeter to contain the fleeing suspect.

As the foot pursuit progressed, Officer A lost sight of the Subject when the Subject entered the driveway where the OIS ultimately occurred. Officer A's decision to deploy into the mouth of the driveway as he/she continued his/her pursuit of the Subject at that point placed Officer A at a significant tactical disadvantage by exposing him/her to the threat that he/she perceived the Subject presented to him, which is the very threat that precipitated the OIS.

Other Resources

Regarding other resources, de-escalation training states, "In the case of a tense or potentially dangerous encounter, requesting additional resources can provide officers with specialized expertise, personnel and tools to help control and contain an incident."

Officers A and B did not request additional resources in advance of their encounter with the Subject, about whom Officer A had information indicating that he was potentially armed. This failure significantly limited any prospects the officers had of effectively controlling and containing the potentially dangerous Subject, and it avoidably left them at a tactical disadvantage throughout their encounter with that Subject.

Lines of Communication

Regarding lines of communication, de-escalation training states, "Maintaining open lines of communication between officers and communicating effectively with a suspect are critically important when managing a tense or potentially dangerous encounter. Communication between officers can improve decision-making under tense circumstances and increase the effectiveness of coordinated actions. In addition, when a suspect observes that officers are prepared, well organized, professional, and working as a team, he or she may be deterred from attempting to flee, fight, or actively resist."

The officers' efforts at communications were deficient throughout the lead-up to the OIS. Officer A did not effectively communicate with Officer B regarding the information he/she had received through Instagram, and neither of the officers informed anyone that they were traveling to the incident location in a neighboring geographical division to look for a potentially armed Subject. Furthermore, the officers did not place themselves Code-6 when they first contacted the Subject. As with all of the failures to adhere to de-escalation training described above, these communications failures contributed to the officers' tactical disadvantage during their encounter with the Subject and unduly increased the risk that the situation might escalate to the point where a use of force would occur.

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

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

Officers A and B failed to discuss, develop, and communicate a clear and thorough tactical plan related to their response to a suspect possibly armed with handgun.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their recognition of an unsafe situation and by working together collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, it was Officers A and B's third time working together, and they discussed general tactical concepts related to their response to various tactical situations which included contact and cover roles, foot pursuits, communication roles including Code Six broadcasts, and de-escalation strategies. Additionally, Officers A and B determined that if one officer made contact with an individual, the other officer would be the communications officer and would place them Code Six. The BOPC noted that upon Officer A obtaining knowledge of a possible suspect armed with a handgun at a location, Officer A proceeded to the location and only advised Officer B that there was possibly a suspect armed with a handgun.

The BOPC was critical of Officer A's reluctance to communicate to Officer B about the information he/she obtained and failure to take the time the officers had to formulate a more thorough plan on confronting a possible suspect armed with a handgun. The BOPC noted that Officers A and B discussed the high gang and narcotics activity that occurred in the area as well as their tactical plan to request additional resources if they encountered a suspect armed with a handgun. The BOPC considered Officers A and B did not notify a supervisor, even though the area was located in Hollenbeck Area, and that they did not request any additional resources prior to their approach of a suspect possibly armed with a handgun. Additionally, the BOPC noted the lack of communication between Officers A and B from the beginning to the end of the encounter.

On their approach to the scene, Officers A and B both observed the Subject on the sidewalk speaking to the occupant of a dark colored vehicle. However, neither officers communicated the reason for their pedestrian stop to each other which led to both officers forming similar, but slightly different, reasonable suspicions for the stop. The BOPC noted that the lack of planning and communication by Officers A and B led to poor tactics as the officers contacted the Subject and a casual method of approach. As Officer A was engaged in verbal contact with the Subject, he/she observed a bulge in the Subject's front right pant pocket and opined that the Subject was the same individual he/she had

observed in the social media video he/she had viewed prior to the encounter. The BOPC noted that Officer A did not communicate with Officer B what he/she observed and his/her opinion that the Subject was armed with a handgun and proceeded to follow after the Subject as he fled north.

The BOPC considered that Officer A was an experienced officer with approximately five years of experience, while Officer B was still a probationary officer with approximately nine months of experience. The BOPC was critical of Officer A's role in the lack of tactical planning and communication prior to and during the incident. The BOPC opined that Officer A did not take responsibility, as the more experienced and senior officer, to engage his/her partner in developing a clear tactical plan including approaching a possibly armed Subject, contact and cover roles, foot pursuits, apprehension versus containment, and the importance of communication throughout an incident. Additionally, the BOPC considered that though Officer B was a probationary officer, he/she was in the final phase of his/her training and the Department's expectation was that he/she would communicate with his/her partner to develop a better plan or clarify if he/she was unsure of the tactical plan. The BOPC noted the lack of tactical planning and communication led to confusion between Officers A and B regarding whether they were in apprehension mode or containment mode during the foot pursuit of the Subject.

The BOPC considered that immediately following the OIS, Officer B attempted to communicate with Officer A to determine if an OIS had just occurred. However, as Officer A began to move forward and approach the Subject, Officers A and B did not communicate their intentions, which led to a difference in their approach as Officer A moved forward and closed distance while Officer B, while utilizing cover, attempted to find an address to broadcast a more precise location for responding units.

The BOPC was critical of the lack of tactical communication between the officers which provided confusion in their tactical approach and created a tactically disadvantageous situation.

Officers A and B approached the tactical situation from different perspectives, leading to tactical decisions made independently of each other, and ultimately led to various tactical issues arising from their lack of tactical planning and communication.

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

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

The purpose of broadcasting a Code Six location is to advise CD and officers in the area of the officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

Officers A and B did not advise CD of their location prior to engaging in a pedestrian stop and did not go Code Six until after the OIS had occurred.

The BOPC noted that both officers were familiar with the area, including the gang and narcotics activity they had both observed in prior incidents. However, due to their lack of communication, neither officer verified that one of them had broadcast they were Code Six and their location. The BOPC noted due to a lack of planning, there was confusion between Officer A and B about who would be communicating and broadcasting their Code Six location. The BOPC considered that due to Officers A and B not placing themselves Code Six, and Officer A's attempted foot pursuit broadcast not making it out over the police radio, the first broadcast to CD and additional resources in the area, occurred after the OIS had already occurred.

The BOPC noted that Officers A and B had sufficient time to broadcast their Code Six location, as well as any other relevant information, prior to making contact with the Subject. The BOPC noted that Officers A and B were conducting a self-initiated pedestrian stop and the officers were not confronted immediately with circumstances or serious criminal activity which would have prevented them from broadcasting their Code Six location. The BOPC was critical of the lack of communication between Officers A and B and their disregard for the importance with regards to officer safety, of providing their location and nature of their stop, considering they were outside their division of assignment.

Considering that Officers A and B believed there was possibly a suspect armed with a handgun at the location, the BOPC would have preferred that the officers broadcast they were Code Six in the area prior to exiting their police vehicle. Field investigations may escalate unexpectedly and may require the response of additional resources, as it did in this incident. Therefore, it is essential that officers provide their location and the nature of their investigation, to maintain officer safety, and in order to keep surrounding resources informed should such a situation arise where their response is required. Officers A and B's failure to communicate their Code Six location and the nature of their investigation, placed them in a tactically disadvantageous position.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's failure to broadcast their Code Six location when provided sufficient time

to do so, was a substantial deviation, without justification, from approved Department tactical training.

3. Pedestrian Stop Tactics/Tactical Vehicle Deployment (Substantial Deviation, without Justification – Officers A and B)

Officer A and B stopped their police vehicle in the center median, facing south, adjacent to the where the Subject was standing on the sidewalk and speaking with the occupant of an unknown dark colored vehicle in the northbound lane.

When arriving at an emergency radio call or conducting enforcement stops, the positioning of the police vehicle is critical for providing officers a tactically advantageous position. Officers must not be complacent or overconfident during enforcement stops given that complacency causes officers to ignore danger signs and compromises officer safety.

In this case, Officers A and B approached the area and proceeded to stop and park their vehicle in the center median lane, facing south. Officer A did not activate the police vehicles emergency lights or utilize the lighting equipment on the police vehicle. The BOPC noted that both Officer A and B articulated reasonable suspicion and determined they would be stopping the Subject who was standing on the sidewalk parallel to where the officers parked their vehicle, for curfew and narcotics violations.

The BOPC was critical of Officer A and B's somewhat complacent manner in exiting their police vehicle, and relaxed approach towards the Subject whom they believed may possibly be armed with a handgun. The BOPC noted that Officers A and B both stopped in front of and then continued forward past the front of an unknown dark colored vehicle, whose occupant they observed conversing with the Subject. The BOPC opined the occupant of the vehicle and the vehicle itself was a potential threat which the officers neglected to consider. The BOPC noted the officers conducted a pedestrian stop on the Subject; however, they approached the Subject as if they were conducting a consensual encounter. The BOPC opined the officers were overly casual in their mindset and tactical approach, especially in their failure to tactically position or utilize their police vehicle for cover while conducting a pedestrian stop on a Subject they believed was possibly armed with a handgun.

The BOPC considered that Officers A and B did not properly position themselves to triangulate on the Subject due to Officer B's concern with the unknown dark colored vehicle that had backed up south and parked along the east curb.

In this case, the BOPC would have preferred that Officers A and B approach their pedestrian stop on a suspect possibly armed with a handgun with the mindset and mentality of maintaining officer safety. Conducting enforcement stops are inherently the most dangerous duties conducted by officers. Officers should

handle all enforcement stop with caution and always keep in mind that no enforcement stop is “routine.” The complacency that comes with everyday enforcement stops leads to officers compromising their safety and not approaching each stop with the proper mindset of utilizing approved Department training to increase officer safety.

Therefore, officer safety is of paramount importance and it is essential that officers utilize enforcement stop tactics designed to enhance officer safety. Officers A and B’s failure to utilize their police vehicle and proper pedestrian stop tactics, placed them in a tactically disadvantageous position.

Based on the totality of the circumstances, the BOPC determined that Officers A and B’s failure to utilize appropriate pedestrian stop tactics, including the utilization of their police vehicle to achieve a tactically advantageous position, was a substantial deviation, without justification, from approved Department tactical training.

4. Approaching a Possibly Armed Suspect (Substantial Deviation, without Justification – Officer A)

Officer A, upon exiting his/her police vehicle to conduct a pedestrian stop of the Subject, closed distance and approached the Subject whom Officer A believed was possibly armed with a handgun.

When officers encounter a suspect that they believe is armed with a weapon, they are trained to place the suspect into a high-risk prone position to facilitate a safe approach to take the suspect into custody. This tactic provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands, and approach the suspect from a position of advantage.

The BOPC considered that Officer A immediately approached and initiated verbal contact with the Subject, whom he/she believed was possibly armed with a handgun without the benefit of any cover. The BOPC was critical of Officer A, who upon observing a bulge in the Subject’s right front pants pocket and believing the Subject was the suspect he/she had observed in the social media video viewed prior to the encounter, did not communicate his/her observations to Officer B, but instead attempted to initiate physical contact and grab a hold of the Subject.

After following the Subject in foot pursuit to the driveway of a residence, Officer A was involved in an OIS. The BOPC noted that immediately following the OIS, Officer A without the benefit of cover, proceeded to approach the Subject while commanding the Subject to get on the ground. The BOPC considered Officer A observed the Subject throw a handgun into the rear yard of the residence immediately following the OIS.

The BOPC would have preferred that Officers A utilize cover when conducting his/her pedestrian stop of the Subject which would have enabled him/her to confront a possibly armed suspect while simultaneously minimizing his/her exposure. The BOPC would have preferred that Officer A maintain his/her distance, utilize available cover, and communicate to Officer B of his/her observation of a possible handgun in the Subject's right front pants pocket. Immediately following the OIS, the BOPC would have preferred that Officer A once again maintain his/her distance, utilize available cover, communicate with Officer B, and wait for the arrival of additional resources prior to approaching the Subject, who may have been possibly armed with additional weapons. Officer A's failure to utilize available cover and approach a possibly armed suspect in a safe and coordinated manner placed him/her and Officer B in a poor tactical position and compromised their safety.

Based on the totality of the circumstances, the BOPC determined that Officer A's failure to utilize available cover and approach towards an armed suspect, placed himself/herself and Officer B in a tactically disadvantageous position, and therefore was a substantial deviation, without justification, from approved Department tactical training.

5. Utilization of Cover (Substantial Deviation, without Justification – Officer A)

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing his or her own exposure. As a result of such utilization, the overall effectiveness of a tactical incident can be enhanced, and an officer's tactical options can also be expanded.

At the time of the OIS, Officer A did not have the benefit of cover. Rather than taking advantage of potential sources of cover, such as vehicles parked in the street, Officer A entered the mouth of the driveway where he saw the Subject run to, and he/she thereby exposed himself/herself to the potential threat of being shot at by the Subject at the time the OIS occurred.

Officer A was asked by FID, "Did -- as you approached the location where the OIS occurred, could you see exactly where he [the Subject] was or did you have cover or could you describe a little bit in more detail how [you] made that approach to that location?" Officer A replied, "I was running in the street just to the right of the cars that were parked on the street, and I originally made the turn after I had lost him in the -- in his turn -- the [Subject]. And once I saw the turn, I had realized that he was directly in front of a locked gate and some trash -- or a gate and some trash cans and -- yeah. [...] When I make that corner, I see him removing the handgun from his waistband, and he's coming up in an upward motion towards my direction."

Officer A's failure to utilize cover, thereby unnecessarily exposing him/herself to an armed suspect, represented an unjustified and substantial deviation from applicable Department tactical training.

- The BOPC also considered the following:
 - 1. Conducting an Investigation Outside of Assigned Area Without Supervisory Approval** –The investigation revealed Officer A gained knowledge of a possible man with a gun in the area (Hollenbeck Area) through monitoring social media utilizing a fictitious profile. This location was outside of their assigned geographic area (Northeast Area). Officer A advised Officer B of the possibility of there being a man with a gun in that area and made the decision to proceed to the location. The officers did not notify a supervisor of their investigative follow-up to check the location. Absent any exigency in this incident, officers were reminded to notify a supervisor when leaving their division to conduct a follow-up investigation.
 - 2. Additional Unit Request** – The investigation revealed that Officer A advised his/her partner, Officer B, of a possible man with a gun in the area based on a social media video. Officer A stated that based on the time of the uploaded video, his/her belief was that the likelihood of an individual posting a video of that nature remaining the area were slim; therefore, Officer A did not request additional units to respond. Officers A and B were reminded to continuously utilize all available resources to increase their tactical advantage when approaching tactical situations where weapons may be present.
 - 3. Running with Service Pistol Drawn** – The investigation revealed that following the Subject fleeing on foot north, Officer A and B drew their service pistols and proceeded to pursue after the Subject on foot until the OIS. The investigation revealed the foot pursuit covered approximately 528 feet and lasted approximately 25 seconds. Although this was a rapidly unfolding incident involving a Subject who appeared to be possibly armed, Officers A and B were reminded that there is a heightened concern for an unintentional discharge when running with a service pistol drawn.
 - 4. Holding Radio in One Hand and Service Pistol in Other** – Officer B provided lethal cover for Officer A while holding his/her service pistol in his/her right hand as he/she held his/her hand-held police radio in his/her left hand as Officer A proceeded to handcuff the Subject. Officer B was reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand.
 - 5. Foot Pursuit Broadcast** – Officer A attempted to broadcast that he/she was in foot pursuit, his/her location, and a backup request while in foot pursuit of the Subject but was ultimately unsuccessful. Officer B, the trailing officer in the foot pursuit, did not assume a communications role or attempt to broadcast. Officer B

was reminded of the importance of the communications officer in a foot pursuit and providing the location of the officers 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.

- 6. Holding Service Pistol in one Hand and TASER in Other** – The investigation revealed that Officer A, while holding his/her service pistol in his/her right hand, drew his/her TASER with his/her left hand and activated the red dot sight of the TASER in an effort to de-escalate the encounter. Officer A was reminded of the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand, due to the potential for an accidental or negligent discharge.
- 7. Use of Force Warning** – The investigation revealed while directing the Subject to get on the ground multiple times, Officer A drew his/her TASER and advised that he/she was going to “tase” The Subject. However, Officer A did not provide a complete Use of Force Warning which would have included an advisement of the potential consequences of the use of force, including the possibility of injury due to the TASER being deployed. Officers were reminded of the importance of providing a complete Use of Force Warning, when feasible, prior to utilizing less-lethal control devices.
- 8. Contact and Cover Roles/Tactics** – As Officer A continued to give the Subject commands to get down on the ground, he/she approached and closed the distance to the Subject. Officer B provided an updated location to CD as he/she stood on the sidewalk just south of the driveway to the residence. Officer B began approaching the Subject in a lethal cover role shortly after Officer A, who had already closed distance and was in close proximity to the Subject, holstered his/her service pistol and TASER, and began initiating physical contact with the Subject to handcuff him. Though officers are granted discretion and flexibility during fluid and dynamic tactical incidents, the BOPC would have preferred that Officer A had communicated to Officer B about his/her observations and intention to close distance and at that time switch his/her designated role from lethal cover officer to a handcuffing role. Officers A and B were reminded, when feasible, to communicate any changes of their tactical plan and roles with their partner officers in order to optimize coordination and officer safety. Additionally, the officers were reminded to utilize the concept of contact and cover, during which one officer initiates contact while the other officer is the lethal cover officer.
- 9. Situational Awareness (Did not Know Location/Wrong Location Given)** – Communications Division requested a better location immediately following Officer B’s shots fired, officer needs help broadcast. Officer B broadcast the location, which was a residence. Officer B’s broadcast indicating an incorrect location caused confusion for responding units and delayed their arrival. Although Officer B provided the correct location during a subsequent broadcast, Officer B was reminded of the importance of knowing his/her correct location at

all times and accurately broadcasting all pertinent information when requesting help.

The above topics were to be discussed during the Tactical Debrief.

- 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 officers to discuss individual actions that took place during this incident.

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

B. Drawing and Exhibiting

- **Officer A**

According to Officer A, after he/she made verbal contact with the Subject, he/she observed the bulge in the Subject's pants pocket. Officer A attempted to inquire what the bulge was, at which time the Subject immediately reached down, clenched the object, and took off running. Based on Officer A's observation of the Subject's actions in response to Officer A's inquiry, Officer A believed that the bulge he/she observed was a handgun. Officer A drew his/her service pistol based on his/her belief the Subject was armed with a handgun and the tactical situation could lead to the use of deadly force.

- **Officer B**

First Occurrence

According to Officer B, he/she was positioned just south of his/her partner on the east sidewalk as Officer A continued his/her verbal contact with the Subject. Officer B observed the Subject suddenly pick the front waistband of his pants up and Officer B believed the Subject possibly could have been reaching for a handgun since in his/her experience, handguns are mainly carried by Subjects in the front waistband area. Additionally, Officer B observed Officer A draw his/her service pistol, which led Officer B to believe that Officer A, who had a better angle, had also observed a weapon. Based on his/her observations, and his/her belief the Subject may be reaching for a weapon or an item to inflict harm on him/her or his/her partner, Officer B drew his/her service pistol.

Second Occurrence

According to Officer B, immediately following the OIS, he/she holstered his/her service pistol to prevent a negligent discharge. Officer B utilized his/her hand-held police radio to broadcast a "shots fired, officer needs help" request. Officer B had knowledge that Officer A observed a handgun and the Subject was still unhandcuffed. Officer B simultaneously drew his/her service pistol as he/she completed his/her broadcast since the Subject was not in custody and Officer B's belief that the situation may escalate to the point where deadly force may be justified.

The BOPC conducted a diligent and individual assessment of each officer's articulation regarding their decision to draw and exhibit their service pistols. The BOPC conducted a thorough evaluation of the reasonableness of Officers A's drawing and exhibiting of his/her service pistol. The BOPC noted that the Subject was armed with a handgun and was fleeing in the dark toward an unknown location. The actions of the Subject presented a potential deadly threat to the officers and the surrounding community.

The BOPC considered Officer A had knowledge that there was a substantial likelihood of a suspect being armed with a handgun near initial pedestrian stop location based on Officer A viewing a social media video. The BOPC noted that after approaching the Subject and initiating verbal contact with the Subject, Officer A observed a bulge in the Subject's right front pants pocket and began to believe the Subject was the same individual he/she observed in the social media video he/she viewed prior to the encounter. The BOPC considered as Officer A inquired as to what was in the Subject's pocket, the Subject reached down and grabbed the object with his/her right hand. Officer A attempted to grab the Subject and commanded him to place his hands behind his back. However, the Subject, while grabbing the object in his right front pants pocket, began to flee north on foot.

The BOPC noted, based on the Subject's reaction and movements following Officer A's inquiring about the bulge in the Subject's pockets, that Officer A formed the opinion that the Subject was armed with a handgun. Officer A drew his/her service pistol due to the inherent danger presented by the Subject's possession of a handgun as well as the danger to the surrounding community which included mostly residential structures.

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 to be In Policy.

The BOPC also conducted a thorough evaluation of the reasonableness of Officer B's drawing and exhibiting of a firearm.

The BOPC noted that Officer B, based on his/her discussion with Officer A prior to approaching the area of the pedestrian stop, had knowledge that there could possibly be a suspect in the area that was armed with a handgun. Additionally, Officer B, based on his/her response the previous week to the same intersection for a Subject who had a handgun, had knowledge that the area was frequented by gang members who often were in possession of handguns. The BOPC considered as Officer A was engaged verbally with the Subject, that Officer B observed the Subject suddenly pick the front waistband of his pants up, and Officer B believed the Subject was possibly reaching for a handgun based on his/her prior experience of generally observing suspects concealing handguns in their front waistband area.

The BOPC noted that Officer B observed Officer A immediately draw his/her service pistol as Officer A began to follow after the Subject who had begun fleeing north on foot. Officer A drawing his/her service pistol further reinforced Officer B's belief that the Subject was reaching for a handgun based on Officer B's perception that Officer A was in a better position to observe the Subject and observed a threat to the officers. Officer B drew his/her service pistol as he/she followed after Officer A and the Subject based on his/her belief that the Subject was reaching for a handgun with the intention of inflicting harm upon both Officer A and him/herself.

The BOPC noted that Officer B holstered his/her service pistol briefly immediately following the OIS to utilize his/her hand-held police radio to broadcast a "shots fired officer needs help" request. As Officer A began to approach the Subject, Officer B immediately drew his/her service pistol a second time based on his/her belief the Subject was possibly still armed with a handgun and was not handcuffed. The BOPC noted that as Officer B initially began following after Officer A and the Subject, that Officer B believed the Subject was possibly armed with a handgun. Additionally, an OIS had just occurred, the Subject was not handcuffed, and Officer B believed the Subject presented a potentially lethal threat based on the Subject still possibly being in possession of a handgun.

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 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 B's drawing and exhibiting of a firearm to be In-Policy.

C. Lethal Use of Force

- **Officer A** – (pistol – one round)

- The preamble to the Department's Use of Force policy includes the statement that "*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 and reasonable to do so.*"¹

The Department's policy specific to the use of deadly force, as was in effect on the date of this incident, indicates that the "Department examines the necessity of deadly force by evaluating each situation in light of the particular circumstances of each case, and whether other available resources and techniques were reasonably safe and feasible to an objectively reasonable officer. The Department shall also consider the totality of the circumstances, including the officer's tactics and decisions leading up to the use of deadly force."²

In its evaluation of the necessity of the use of deadly force by Officer A, the BOPC considered both the circumstances facing Officer A at the time the OIS occurred and the series of tactical decisions that were made leading up to the OIS.

The BOPC noted that Officer A used deadly force when he/she observed the Subject taking actions with a gun that caused Officer A to perceive that the gun was pointed at him/her. However, as indicated above, the dangerous and tactically disadvantageous situation under which this perceived threat occurred arose following a series of decisions by Officer A that deviated from Department training regarding tactics and tactical de-escalation. That series of deficient decisions significantly contributed to the circumstances in which Officer A felt compelled to use deadly force.

Despite Officer A having ample opportunity to do so, Officer A did not comport with policy requiring that officers attempt to control an incident by using time, distance, communication, and available resources in an effort to de-escalate the situation. In light of this, the totality of the circumstances did not necessitate Officer A's use of deadly force. Accordingly, the BOPC found that Officer A's use of deadly force was Out of Policy.

Additional

- Following the OIS, a warrantless search of the gated area into which the Subject had thrown his weapon was conducted, and the weapon was ultimately located. The investigation did not establish that there was an exception to the requirement for a search warrant in conducting this premises search, such as exigent circumstances or consent.

¹ Policy on the Use of Force – Revised. Approved by the Board of Police Commissioners on December 17, 2019.

² *Id.*

- The BOPC directed the Director of the Office of Constitutional Policing and Policy to complete a review of the LAPD Social Media User Guide. Based on developing and progressing technology and social media applications, the Department will conduct an evaluation of the best practices related to the use of social media, ensuring consistent and effective protocols are utilized. The Department will evaluate the most effective practices with regard to utilizing social media to aid in Department investigations in accordance with Federal and State laws, along with best practices while making use of technology to keep our communities and officers safe.