

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

**OFFICER-INVOLVED SHOOTING – 039-20**

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

Southeast                      8/24/20

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

Officer A    13 years, 3 months

**Reason for Police Contact**

Gang Enforcement Detail (GED) officers responded to a call of a group gathered, with one possibly armed with a gun. Upon their arrival, a suspect ran toward officers while armed with a handgun resulting in an Officer-Involved Shooting.

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

Male, 19 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 BOPC of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on August 3, 2021.

## **Incident Summary**

On Monday, August 24, 2020, the Gang Enforcement Detail (GED) was staffed by Sergeant A, and several officers, including Officers A through I.

At 1721 hours, Communications Division (CD) broadcast that there was a “415 group [...] activity with a gun [...] behind the apartment complex.” CD also provided a partial description of the suspects and the address, etc.

Officer D is a court qualified expert on the suspects described in the call. According to Officer D, one of his/her assigned duties within the GED was to monitor their activities and gather intelligence on them. On the day of this incident, he/she heard the broadcast and recognized the location as a common meeting place for the suspects. In response, Officer D asked CD to assign the call to him/her. After listening to the comments of the call and considering the location, Officer D asked additional GED units to assist.

Before responding to the call, Officer D conducted a briefing at the GED office. Present were Sergeant A, and other officers, including Officers A, B, C, E, F, G, H, and I.

Sergeant A was in the office at the time of the briefing but was completing other work. Sergeant A monitored what was being said and approved of the plan but did not directly participate in the planning or briefing of this incident. According to Sergeant A, this level of pre-planning does not require the completion of a written Operation Plan. Additionally, a radio call of this type does not require the response of a supervisor.

During the briefing, Officer D used a dry erase board to sketch the location and illustrate avenues of approach. According to Officer D, the plan included establishing containment in all four directions.

According to the plan, Officers B, C, D, and I would respond to the alley behind apartment in marked police vehicles. They would drive west through the alley before dismounting their police vehicles and entering the parking lot on foot. Similarly, Officers A, E, F, G, and H would respond to the location in two marked police vehicles, but they would approach the front of the location. Additionally, the units would use their police radios to communicate with each other on the Simplex radio frequency (“Simplex) as needed.

After the briefing, the officers responded to the location in four vehicles. Officers A, E, and F rode together in one vehicle. While en route to the location, Officers A and F briefed Officer E.

Officer D drove west through the alley, with Officer B in the front passenger seat. Behind them were Officers C and I, who were in a second marked police vehicle.

The officers and police vehicles responded to the area of the call in-trail and then peeled off to their assigned positions upon arrival. The officers headed to the alley arrived at their destination several seconds before the officers headed to the front of the location arrived at theirs.

As they approached the location, both Officers B and D observed a group of male suspects congregated in the middle of the parking lot area. According to Officer D, he/she stopped the police vehicle approximately 50 feet away from the parking lot area. Officer D recognized three of the individuals as Subjects 1, 2, and 3 based on prior contacts. Officer B observed Subject 1 suddenly start running toward the east side of the apartment building. According to Officer B, he/she observed Subject 1's right hand near his right front waistband area gripping what Officer B believed to be a black handgun.

Security video footage shows that three of the men were sitting on the ground, but Subject 1 was standing and bent forward at the waist.

Officer B exited his/her police vehicle, ran into the parking lot and followed behind Subject 1. According to Officer B, he/she was concerned that Subject 1 might discard the handgun in an area where children might find it or that Subject 1 may enter one of the homes and create a barricade or hostage situation.

As Officer B ran north through the parking lot, he/she was accompanied by Officer C.

Once Officer B reached the east walkway, he/she no longer observed Subject 1. Officers B and C continued moving north on the east side of the apartment building to locate Subject 1.

Officer D exited his/her vehicle and simultaneously used his/her police radio to notify the other GED units that Subject 1 was running north. Officers D and I then entered the parking lot behind Officers B and C. They remained in the parking lot and detained the remaining suspects while Officers B and C continued north.

As Subject 1 fled from the parking lot, Officers A, E, and F were arriving to the front of the location in their police vehicle. According to Officer A, he/she was monitoring Simplex when he/she heard one of his/her partner officers in the alley broadcast that a suspect was running toward the front of the building.

While en route to the location, Officer D observed a red vehicle through an adjoining alleyway west of the apartment building and believed it may have been related to the radio call based on earlier comments. Officer D directed Officers G and H to locate the vehicle. Officers G and H attempted to enter the alleyway but were unable because a

parked car was blocking their access. As such, they continued driving east to assist Officers A, E, and F on the north side of the apartment building.

Officer A stopped his/her police vehicle in front of the location and exited. Immediately upon doing so, Officer A observed Subject 1 running in his/her direction. According to Officer A, Subject 1 was making eye contact while gripping the handle of a black pistol that was in his right, front waistband. Officer A believed Subject 1 was about to draw his pistol and shoot him/her or one of the other officers with him/her.

Officer E indicated that he/she observed Subject 1 grab the butt end of a black pistol that was in his/her right front waistband area. According to Officer E, he/she observed Subject 1 begin to remove the pistol from his/her waistband, but lost sight of Subject 1 when Officer A crossed in front of him/her. Officer E was unable to fire at Subject 1 because Officer A was in his/her line of fire.

Officer F observed Subject 1 holding the handle of a black pistol with his right hand. According to Officer F, he/she intended to unholster his/her handgun at that point, but did not because Officers A and E were in front of him/her.

In response to Subject 1's actions, Officer A unholstered his/her handgun. At the point he/she began unholstering, Officer A was standing on the driver's side of a vehicle that was parked along the south curb. Officer A moved around the hood of the car and south toward the sidewalk area while Subject 1 ran west across the grass. Officer A assumed a two-handed grip and fired one round at Subject 1's upper right torso, from a distance of approximately 25 feet.

At the point he/she fired, Officer A believed that Subject 1 was moving west through the yard and was approximately 10 feet away from him/her.

According to Officer A, after firing the first round, he/she attempted to fire an additional round, but encountered a spongy sensation while pressing his/her trigger. Upon examining his/her handgun, he/she realized that it had malfunctioned. Officer A cleared this malfunction by tapping on the bottom of his/her magazine and by cycling the slide with his/her left hand as he/she simultaneously moved southwest onto the sidewalk. Subject 1 continued running across the grass as Officer A cleared the malfunction.

A review of BWV revealed that Officer A had a flashlight and a set of car keys in his/her left hand while he/she simultaneously gripped and fired his/her handgun. Officer A dropped these items when he/she cleared the malfunction. The handgun went back into battery after Officer A tapped the bottom of the magazine. As such, when he/she cycled the slide, a live cartridge was ejected from the gun and onto the sidewalk west of him/her. This cartridge was later collected by members of Firearms Analysis Unit (FAU) when they processed the scene.

As Subject 1 began running south along the west side of the apartment building, Officer A positioned him/herself on the sidewalk near the wrought iron fence. Officer A then utilized a two-handed grip and fired three additional rounds at Subject 1's back as Subject 1 continued running south. These rounds were fired from an increasing distance of approximately 40-55 feet.

At the point Officer A fired his/her second round, he/she believed Subject 1 was approximately 20 feet away from his/her position and running south along the west side of the apartment building.

According to Officer A, after firing his/her second round, he/she performed a brief assessment before firing a third round. Officer A only recalled firing three rounds during this incident. According to Officer A, one round was fired before the malfunction and then two after. A review of physical evidence and BWV determined Officer A fired a total of four rounds. One round was fired before the malfunction and three were fired after. Additionally, the investigation determined that Subject 1 was not struck by the gunfire.

Officers B and C arrived at the front of the building after Officer A cleared the malfunction and began firing his/her second round. According to Officers B and C, they were running north on the east walkway when they heard gunfire coming from the front of the location.

After his/her final shot, Officer A observed Subject 1 remove the handgun from his/her waistband with his/her right hand and throw it west over a five-foot-tall chain link fence.

After discarding the handgun, Subject 1 continued running until he reached the south end of the walkway where he tumbled over a four-foot-tall chain link fence that separated the walkway from the parking lot.

According to Officer D, as he/she was addressing the other suspects in the parking lot, he/she heard three or four gunshots coming from the front of the location. Officer D broadcast, "Shots fired. Officer Needs Help," over the police radio. As he/she did so, he/she observed Subject 1 tumble over the fence and onto the northwest portion of the parking lot. Officer D pointed his/her handgun in Subject 1's direction while giving him/her verbal commands to "rollover" and "relax" as he/she waited for other officers to arrive and assist with handcuffing.

After firing his/her final round, Officer A moved east and entered the front yard through a pedestrian gate, followed by Officers E and F. Simultaneously, Officers B and C moved across the grass toward the west walkway, as Officer A entered the front yard and moved onto the west walkway. In doing so, Officer A ran in front of Officers B and C.

Officers B and C lowered their weapons so as not to cover Officer A as he/she ran in front of them. As Officer A moved forward along the west walkway, Officer C yelled, "Hold up" several times while extending his/her left hand toward Officer A.

Officer A maintained this position with his/her handgun at a low-ready position as Officers C, E, and F moved forward and joined him/her.

According to Officer A, he/she believed that the most prudent course of action was to move forward and stand near Subject 1's firearm.

Officer C used his/her police radio to advise the officers in the parking lot that Subject 1 was in a prone position near the west wall. After broadcasting that information, Officers A, C, E, and F moved farther south along the walkway.

While Officer D was covering Subject 1, he/she observed Officer A's handgun and arms on the north side of the fence that Subject 1 had previously tumbled over. According to Officer D, he/she directed the officers to move back because he/she wanted to avoid a potential crossfire situation.

As he/she waited for additional officers to come and assist with handcuffing, Officer D asked Subject 1 if he had been shot or if he needed an ambulance. Officer D did not see any injuries, and Subject 1 told him/her that he did not know if he was injured.

After Officer D told Officer A that he/she was covering Subject 1, Officers A and C backed up approximately seven feet on the west walkway. Simultaneously, Officers E and F redeployed to the parking lot to assist with handcuffing Subject 1 and the other suspects.

Approximately two minutes after the OIS, Sergeant A arrived and declared him/herself Incident Commander. Sergeant A responded to the parking lot area where he/she directed Officers D, E, G, and I to take Subject 1 into custody.

During the incident, after initially unholstering his/her handgun, Officer E holstered his/her handgun before running to the west walkway. Once there, he/she unholstered for a second time. After several moments, Officer E holstered his/her handgun before running to the back-parking lot. Once there, Officer E unholstered his/her handgun and maintained it in a low-ready position while each of the Subjects were handcuffed. Officer E holstered his/her handgun once Subject 1 was handcuffed.

In explaining his/her decision to holster while on the sidewalk, Officer E stated that he/she planned to redeploy toward the location and had been trained not to run with his/her gun out. Once on the walkway, he/she unholstered because he/she had previously seen that Subject 1 was armed with a handgun and believed the situation could still escalate to a point where deadly force would be necessary. Officer E

holstered his/her handgun on the west walkway because he/she planned to redeploy to the parking lot area and assist with taking the Subjects into custody. Officer E again stated that he/she had been trained not to run with his/her gun out. Once in the parking lot, he/she unholstered his/her handgun while the Subjects were being taken into custody. According to Officer E, he/she was aware that an OIS had occurred and he/she believed that another OIS could occur based on the tactical situation. Officer E holstered his/her handgun once the Subjects were in custody.

After the OIS, Officer A holstered his/her handgun before running to the west walkway. In explaining his/her decision to holster, Officer A stated that he/she planned to redeploy toward the location and did not want to run with his/her gun out. Once on the west walkway, he/she unholstered because he/she was in sight of Subject 1 and knew that Subject 1's firearm was unsecured. Officer A holstered his/her handgun on the west walkway once the Subjects were in custody.

During the interview, Officer A was asked why he/she elected to park his/her police vehicle immediately north of the location. According to Officer A, he/she was there to provide containment and positioned his/her vehicle to allow him/her to observe anyone who fled from the location. According to Officer A, he/she heard on his/her police radio that a suspect was running in his/her direction, but he/she did not know officers were in foot pursuit at that time.

### **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
Sergeant A	Yes	Yes	Yes	No	No
Officer A	No	Yes	Yes	N/A	N/A
Officer E	No	Yes	Yes	N/A	N/A
Officer F	Yes	Yes	Yes	N/A	N/A
Officer D	No	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	N/A	N/A
Officer I	No	Yes	Yes	N/A	N/A
Officer G	Yes	Yes	Yes	N/A	N/A
Officer H	Yes	Yes	Yes	N/A	N/A
Officer B	Yes	Yes	Yes	N/A	N/A

### **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 Sergeant A and Officers A, B, and C's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers D, E, and F's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

The BOPC found Officers A, B, C, D, and E'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 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, 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. 4, 2020, Policy on the Use of Force - Revised.)

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

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



20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

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

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

**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.

**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. 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.

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.

**Note:** Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on

the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

**The Department's Evaluation of Deadly Force.** The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*. (Special Order No. 4, 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.)

## **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 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** – Officer D, a court qualified expert, heard the radio call broadcast by CD and recognized the location as being an area known for criminal activity. Officer D gathered the GED personnel, including Sergeant A, inside of the GED office where Officer D developed and communicated a tactical plan, involving containment location designations and the route of travel to respond to the radio call.

Sergeant A was present for the planning and had no concerns; however, the plan did not specifically designate less-lethal or contact and cover roles. Additionally, the radio call indicated this group was possibly in possession of a handgun. Officer D utilized the majority of GED officers in his/her deployment response plan; however, Sergeant A remained at the station to complete his/her administrative duties rather than oversee the implementation of this containment plan. The BOPC was critical of Sergeant A's decision to only participate in the planning of the incident and his/her lack of implementing active leadership in the initiation of the tactical plan.

**Assessment** – Upon hearing the radio call broadcast, Officer D requested that CD assign the radio call to him/her as he/she understood it involved activity at a location that was known criminal activity. Officer D assessed that the radio call described the presence of numerous individuals and the possibility of a handgun being present, as well as a vehicle that was suspected of being utilized during an ADW shooting that had occurred within the past year.

Subsequent to the OIS, Officer D, who was containing the southern end of the apartment complex, observed Subject 1 fall over a fence and onto the ground near the three other individuals. Officer D made the assessment to wait for additional personnel to arrive, prior to attempting to handcuff the individuals pending the investigation. Upon the individuals being placed into handcuffs and taken into custody, Officer D observed an unruly crowd of community members gathering around the location. In Officer D's assessment, he/she concluded that removing the detained individuals from the scene may de-escalate the situation and avoid further incidents.

Officer D assessed the scene and directed personnel to maintain the scene's integrity by protecting evidence, attempting to locate surveillance cameras, and limiting access to the scene.

**Time** – Officer D utilized time to develop and communicate his/her prior knowledge of the radio call location and previous crimes to GED personnel, prior to responding to the location. Officer D took advantage of the available time to utilize a white board to visually and verbally inform the GED personnel of the area layout, which included the alleys, main streets, and directions of travel to the location.

Subsequent to the OIS, Officer D waited for additional personnel to arrive at the location before enacting additional detention activity, thereby minimizing the escalation of the incident, which now involved an emotional crowd of community members.

**Redeployment and/or Containment** – Officer D's plan was for officers to arrive at the location as a group and establish containment around the location, prior to detention. When Subject 1 saw the officers and began running, Officers B and C opted to pursue Subject 1 on foot, thereby deviating from the agreed upon plan and passing unsearched individuals and a vehicle in the process. As they deployed along the east side of the apartment building in an attempt to gain a visual of Subject 1's movements, they heard gunshots. At that point, Officers B and C continued to the north side of the building to assess the incident. They ultimately redeployed to the street to coordinate the arrival of responding units with Officer D, who was positioned on the south side of the building.

Prior to the OIS incident, Officer A left cover behind a parked vehicle and redeployed in front of the vehicle and onto the north sidewalk as he/she discharged his/her service pistol.

After the OIS incident, Officer A re-established a line of sight on Subject 1 and the discarded handgun along the west side walkway. As Officer A approached in a southbound direction along the west side walkway, Officer D recognized that there may be a possible crossfire situation had Officer A moved closer and directed Officer A to redeploy to prevent it.

**Other Resources** – Officer D gathered the additional resources of the GED unit to assist him/her in responding to a radio call involving a group. Officer D utilized a white board to create a written diagram of the location, route of travel, and positioning of GED personnel for containment purposes. Additionally, Officer D generated a “help” call to summon the response of additional Department personnel.

**Lines of Communication** – Officer D briefed the GED personnel regarding the radio call, the location, and his/her knowledge of the individuals, as well as a plan of action to set-up containment. Officer D directed officers to communicate with each other through the Division’s “Simplex” radio frequency in order to effectively communicate without tying up the base frequency. Officer D notified the officers in the containment that Subject 1 was running northbound as Officer D and other GED officers approached the location from the south.

Officer D and the other GED officers utilized Simplex to communicate amongst each other while enroute and upon arriving to the location.

Subsequent to the OIS and after Subject 1 climbed over the fence, Officer D communicated with Subject 1 to de-escalate and assess if Subject 1 was injured or required immediate medical attention.

Officer D communicated with the other officers to slow down in order to effectively manage the incident and take the detained individuals into custody in a safe manner. Additionally, Officer D directed Officer A to redeploy to mitigate a possible crossfire situation should the incident require a further utilization of force.

Subsequent to the OIS incident, Officer C slowed the progression of Officer A down the west side of the walkway in order to coordinate the officers’ efforts. Officer C used his/her police radio to advise the officers in the rear parking lot that Subject 1 was in a prone position near the west wall.

Officer B redeployed to the north side of the location and coordinated the response and arrival of personnel and the Air Unit, along with Officer D. Officer B assigned duties and responsibilities to arriving personnel to establish and secure a crime scene.

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

## 1. Tactical Planning - Command and Control

Sergeant A was present as Officer D developed and communicated a tactical plan in responding to the Code Two radio call of a “415 group [...] activity with a gun.” Officer D utilized a white board to convey the plan, which did not include the deployment of less-lethal force options; however, Sergeant A had no concerns with Officer D’s plan. Sergeant A was completing administrative duties and remained in the GED office as the GED officers responded to handle the radio call. Sergeant A was not present when the officers arrived at the location to set-up containment and oversee the implementation of the plan. Upon hearing the “help” call broadcast, Sergeant A responded to the location and declared himself as Incident Commander (IC).

The BOPC deliberated on Sergeant A’s actions and level of supervisory oversight during the entirety of this incident. Although this incident was generated as a Code Two radio call, the comments of the call and level of pre-planning by the officers under his/her command, specifically Officer D’s familiarity with the location, the crime trends, shootings, and individuals that congregate in that area, displayed the heightened likelihood of encountering an armed individual during their response. The BOPC would have preferred Sergeant A had been more involved in developing a tactical plan that included pre-designated roles, as this was not a spontaneous incident and time was available to develop a comprehensive plan in their response. While the communicated plan in the office included a route of travel, a drawn diagram of the location, and an initial objective of creating containment around the location, the plan lacked detail and specificity with regard to tactical vehicle parking and deployment, foot pursuit concepts, and an absence of less-lethal designations and assignments prior to officer’s arrival and subsequent to the OIS incident when the arrest teams were taking the individuals into custody.

The BOPC noted that a supervisor’s command and control of an incident begins at the start of the incident, not when they are summoned to a post-incident scene. Although confident in his/her officers’ abilities, Sergeant A’s active involvement was needed in the development and communication of this plan, as well as in the unit’s response to the incident location where containment was not in place as the officers approached the individuals from the south side of the property. In this case, Sergeant A’s direction was needed in providing oversight and direction, which may have prevented some of the tactical missteps. Additionally, the officers under his/her command would have benefitted from his/her specialized training and tactical insight from his/her work experience. Sergeant A’s actions were not consistent with Department supervisory training.

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

## 2. Foot Pursuit Concepts

As Officers B, C, D, and I responded to the radio call on the south side of the apartment building, they observed four individuals at the location in the rear parking lot. Subject 1 stood up from the ground and ran north along the east walkway, towards the north side of the building, while clutching his waistband. The other three individuals remained on the ground, offering no resistance. Officers B, C, D, and I ran into the parking lot where Officers B and C ran northbound in Subject 1's direction past the three individuals and the burgundy vehicle, while Officers D and I remained in the south side containment position. Officer C directed Officers D and I to remain with the three individuals, while he/she and Officer B followed Subject 1. Neither Officers B nor C broadcast to the northern containment officers that they were pursuing Subject 1 northbound on foot. In addition, although Officer B had observed Subject 1 in possession of a handgun as they "chased" after Subject 1, Officer B did not broadcast this information to the other GED officers.

Force Investigation Division investigators noted that BWV depicted Officer C with his/her service pistol drawn as he/she followed Officer B, along with the downward direction of Officer C's muzzle. Investigators were unable to determine if Officer C covered Officer B with the muzzle of his/her service pistol as he/she followed Officer B. According to Officer B, he/she was in "containment mode" to maintain a visual on Subject 1 because he/she was concerned that Subject 1 might discard the handgun in an area where children could find it or that Subject 1 may enter one of the homes and create a barricade or hostage situation. Once Officer B reached the east walkway, he/she no longer observed Subject 1 but continued his/her advancement, along with Officer C. According to Officer C, they chased Subject 1 in "containment mode," because they believed Subject 1 was armed with a handgun and their objective was to track Subject 1's movements and broadcast pertinent information.

The BOPC conducted a diligent review of Officer C's muzzle positioning as he/she followed Officer B along the east walkway. The BOPC opined that Officer C made noticeable adjustments with his/her service pistol as he/she continued north behind Officer B and did not appear to cover Officer B with his/her service pistol.

The BOPC noted that in following Subject 1's movements, Officers B and C ran past three individuals and a vehicle; however, Officer C directed Officers D and I, who were behind Officers B and C, to focus on the individuals in the rear parking lot. The BOPC also discussed Officers B and C shifting from a position of containment to an appearance of attempting to apprehend Subject 1. The BOPC noted with concern that Officers B and C running into a contained area after an armed suspect could have been problematic. The BOPC also considered Officers B and C's concern that Subject 1 could hide in a place known to protect gang members or gain access to an occupied location creating a barricade

situation. The BOPC would have preferred that Officers B and C had communicated their movement with Officers A, E, and F, who were on the northern side of the building, so that those officers were aware of Officers B and C's presence prior to turning the corner. In addition, Officers B and C's intent was to maintain a visual on Subject 1; however, the BOPC would have preferred that Officers B and C had remained in containment mode and conducted a methodical search of the area.

The BOPC considered the facts and circumstances surrounding this incident. This incident was not spontaneous and afforded the involved officers time to develop a tactical plan. Officers B and C understood that the plan was to contain the area and should have anticipated that someone may run. When Subject 1 ran from officers, Officers B and C decided to deviate from the plan. Officers B and C ran past several unsearched persons and an unsearched vehicle.

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

### **3. Utilization of Cover**

As Officer A exited the police vehicle, he/she observed Subject 1 running towards him/her and grabbing a handgun located in Subject 1's waistband. Officer A drew his/her service pistol, as he/she approached behind a parked Honda Civic coupe located between him/her and Subject 1. Officer A then bypassed the parked Honda and advanced towards Subject 1, leaving cover as Subject 1 ran west and then south through the front yard of the location.

In addition, Officer A positioned him/herself approximately seven feet south of the northwest corner of the building, without cover. Once Officer A was on the west walkway, he/she unholstered his/her service pistol a second time because he/she was in eyesight of Subject 1 and was aware that Subject 1's handgun was "still outstanding." According to Officer A, he/she received training in the past that when an Officer-Involved Shooting occurs, "gang members will try to assist each other," canvass the area, recover that handgun, and "dispose of it for their fellow gang members."

The BOPC discussed Use of Force-Tactics, "Tactical De-Escalation Techniques," which describe utilizing distance, coupled with cover, to afford an officer time to make a proper assessment and attempt to de-escalate an incident as well as minimize an officer's exposure to an armed suspect. In the pre-planning of this incident, the objective in handling this radio call was to establish containment, which would have allowed the officers to maintain control of the situation. The BOPC opined that had Officer A adhered to the directive by utilizing cover and distance, it would have provided Officer A an opportunity to re-assess,

communicate, and consider deploying other tactics. This may have allowed Officer A to decrease the intensity of the incident.

Furthermore, the BOPC noted that adequate cover existed on the northwest corner of the building; however, Officer A continued to move down the west side of the walkway towards the area where Subject 1 climbed and tumbled over the fence. It was Officer C who slowed Officer A's movements in order to assess the situation and communicate over the radio regarding the status of the incident, as Officer A continued to move away from the northwest corner of the building and south along the west walkway.

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.

#### **4. Situational Awareness**

Subsequent to Officer A discharging his/her service pistol, Officer A redeployed into the front yard on the north side of the property. Officers B and C were already positioned on the northwest side of the property with their service pistols drawn, covering the area where Subject 1 was last observed climbing over a fence. Officer A moved west and then south, crossing in front of Officers B and C. Officer A positioned him/herself between Subject 1 and Officers B and C on the west walkway, creating a potential crossfire situation if Subject 1 re-emerged and engaged the officers with a lethal threat.

The BOPC was critical of Officer A's actions and decision to continue pursuing Subject 1 as Subject 1 fled south on the west walkway. The BOPC commended Officers B and C for recognizing the hazard in Officer A's redeployment and lowering the muzzles of their service pistols in response. The BOPC concluded that Officer A's lack of situational awareness in placing him/herself between an individual he/she believed to be a deadly threat and other officers who already had their service pistols drawn and pointed in the direction of where Officer A moved to was tactically unsafe.

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.

- The BOPC also considered the following:
  - **Personal Protective Equipment (Non-Medical Face Coverings)** – Department personnel were observed at scene not wearing non-medical face coverings after the resolution of the tactical incident, which was contrary to the COVID-19 safety protocols implemented by the Department.



- **Discharging Service Pistol while holding Items in Support Hand** – The FID investigation revealed that Officer A held and discharged his/her service pistol, while simultaneously holding his/her flashlight and police vehicle keys in his/her support hand.
- **Search of Individuals/Subjects/Arrestees** – Officer G conducted an initial pat down search of an individual of the opposite sex.
- **Tactical Communication/Tactical Planning** – Officers A, E, and F were operating as a three-officer unit for the incident. Officers A and E believed they were to assume the contact officer roles, while Officer F would assume the role of cover officer. However, Officer E believed that either he/she or Officer F would assume the role of contact officer, dependent upon which side of the police vehicle they deployed from, and Officer A would assume the role of cover officer.
- **Tactical Vehicle Deployment** - Officer D parked his/her police vehicle in the rear alley in proximity to the radio call. Subject 1 observed the police vehicle and fled. According to Officer D, he/she parked the police vehicle approximately 50 feet from the location and according to Officer B, the police vehicle stopped approximately 20 to 30 feet from where Subject 1 and the other three individuals were seated in the parking lot.

Officer A, who was driving the police vehicle which was also occupied by Officers E and F, were designated as northern containment in the pre-planning of the incident.

Officer A parked the police vehicle in front, at the northwest corner of the location. This location had been pre-planned and identified by Officer D. According to Officer A, he/she parked his/her police vehicle north of the location to provide containment and to allow him/her to observe anyone who fled from the location.

- **Crowd Management** – Subsequent to the OIS incident, several community members gathered around the incident location yelling obscenities, making threats, and pushing over a trashcan in a display of aggression and in close proximity to the officers.

## **Command and Control**

- Officer D heard a Code Two radio call of a “415 gang group with a gun” and further comments indicated there was “possibly a handgun at the location.” Officer D was aware this was within his/her assigned gang area and requested the radio call be assigned to him/her. Officer D established and communicated a tactical plan, including a visual diagram, for GED personnel. Subsequent to the OIS incident, Officer D broadcast the “help call,” gathering and directing additional responding resources to the location and assumed command and control of the rear of the

location to take the individuals into custody without further incident. Officer D observed a hostile crowd forming and directed Department personnel to establish a crime scene and preserve evidence. Officer D also made the determination that removing the detained individuals would de-escalate the situation and directed personnel to transport the detained individuals back to Southeast CPS. In addition, Officer D advised Sergeant A that Officer A was the officer involved in the OIS and located a bullet impact on the residence. Officer D led Department personnel to contact residents to ensure no one was injured as a result of the OIS incident.

Subsequent to the OIS incident, Officer B redeployed and assumed command and control by broadcasting and directing responding personnel on where and what resources were needed. Additionally, Officer B briefed the arriving supervisors on who was involved in the OIS and in directing personnel to secure the crime scene.

The actions of Officers B and D were consistent with Department training and the BOPC's expectations of senior officers during a critical incident.

Sergeant A was present as Officer D developed and communicated a tactical plan in responding to the Code Two radio call and had no concerns with Officer D's plan, although there were no pre-designated roles other than containment positions. Sergeant A completed administrative duties as the GED officers responded to handle the radio call and was not present for the officers' initial arrival to set-up containment. Even though the GED unit responded together to the radio call and there was information which indicated that there was a possible handgun at the location, Sergeant A did not initially respond with the GED unit. Upon hearing the "help" call broadcast, Sergeant A responded to the location and declared him/herself as Incident Commander (IC). Sergeant A met with Officer B who briefed him/her on the incident. Sergeant A supervised arriving personnel to ensure there was a designated cover officer (DCO) and handcuffing officer as they took the detained individuals into custody at the rear of the location. Sergeant A ensured Subject 1 was uninjured and that medical treatment was not needed. As a hostile crowd gathered around the OIS location, Sergeant A directed Department personnel to assist with the crime scene, assist in crowd control, and secure evidence.

Additionally, Sergeant A separated Officer A and relinquished him/her to the custody and care of Sergeant A.

In considering Sergeant A's lack of specificity in assigning roles during the planning of this incident, as well as not being present to provide supervisory oversight and active leadership to the officers as the plan was implemented, the BOPC concluded that the overall actions of Sergeant A were not consistent with Department supervisory training nor the BOPC's expectations of field supervisors during a critical incident.

Sergeant B, along with Sergeants C, D, and E, responded to the scene and assisted in the separation, monitoring, and transportation of the identified involved and witnessing officers as follows:

Sergeant B arrived at the scene, assumed the separation and monitoring of Officer A from Sergeant A, and obtained a Public Safety Statement (PSS) from Officer A. Sergeant B transported Officer A to the station and continued to monitor him/her until relieved.

Sergeant D arrived at the scene and assumed the separation and monitoring of Officers E and F. Sergeant D transported Officers E and F to the station and continued to monitor the officers until relieved.

Sergeant E arrived at the scene and assumed the separation and monitoring of Officers B, C, and D. Sergeant E transported Officers B, C, and D to the station and continued to monitor the officers until relieved.

Sergeant C arrived at the scene and assumed the separation and monitoring of Officers G, H, and I. Sergeant C transported Officers G, H, and I to the station and continued to monitor the officers until relieved.

The actions of Sergeants B, C, D, and E were consistent with Department supervisory training and the expectations of field supervisors during a critical incident.

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

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 involved personnel to discuss individual actions that took place during this incident.

The BOPC found Sergeant A and Officers A, B, and C's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers D, E, and F's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- **Officer A – Two Occurrences**

### First Occurrence

According to Officer A, he/she had responded to a radio call of a “415 gang group” where the PR had reported observing “seven [individuals]” including one in possession of a “firearm.” As Officer A arrived at the scene, he/she parked and exited his/her police vehicle. Officer A observed a “male [...]” along the east side of the apartment complex in a northerly direction, coming towards him/her and Officers E and F. Officer A “made direct eye contact” with Subject 1, who “had a surprised look on his/her face,” as Subject 1 positioned his/her “right hand in his/her front right waistband,” where Officer A observed Subject 1 “holding a black semi-automatic handgun in his/her front right waistband” with a “full grip.” In fear that Subject 1 was “going to pull out the firearm and kill” him/her or Officers E and F, Officer A drew his/her service pistol as Subject 1 was approximately “15 to 20 feet” away from Officer A, because Officer A believed that the situation was going to “escalate into serious bodily injury or threat.”

### Second Occurrence

According to Officer A, he/she holstered his/her service pistol because he/she planned to “redeploy” towards the location and did not “want to run” with his/her service pistol out. Once he/she was on the west walkway, Officer A unholstered his/her service pistol a second time because he/she was in eyesight of Subject 1, was aware that Subject 1’s handgun was “still outstanding,” and believed that the situation could still escalate to a situation involving “serious bodily injury or death.” Officer A holstered his/her service pistol on the west walkway once all the individuals, including Subject 1, were in custody.

- **Officer E – Three Occurrences**

### First Occurrence

According to Officer E, as he/she arrived at the location, he/she heard Officer D broadcast “that a subject was now running” to the front of the location. Based on Officer E’s prior knowledge of the location and that gang members were “usually armed,” Officer E sought the cover of a nearby vehicle and observed Subject 1 running through the property. Subject 1 made “eye contact” with Officer E and had a “startled look.” Officer E observed the “butt end of a firearm” outside of Subject 1’s “waistband.” Officer E drew his/her service pistol because he/she believed Subject 1 could “remove the firearm” and “point it” at Officer E or the other officers. Officer E further added that the “tactical situation could escalate to deadly force.”

## Second Occurrence

According to Officer E, he/she planned to redeploy towards the location and had been trained “not to run with” his/her service pistol out. Once on the walkway, Officer E unholstered his/her service pistol a second time because Officer E had previously observed Subject 1 “armed” with a “firearm” and believed the situation could still escalate to where “deadly force” would be necessary. Officer E holstered his/her service pistol a second time while on the west walkway because Officer E planned to redeploy to the rear parking lot area and assist officers in taking the individuals into custody.

In this case, the BOPC conducted an evaluation of the reasonableness of Officer A and E’s first and second drawing and exhibiting. The BOPC noted the comments of the radio call indicated an individual in possible possession of a handgun in an area known to be frequented by gang members. The officers were further informed that Subject 1 was running towards their location as they were arriving to the north side of the building. Officers A and E exited the police vehicle and observed Subject 1 running towards them with a handgun in his/her waistband, causing Officers A and E to draw their service pistols in concern for their and other officer’s lives. Subsequent to the OIS incident, Officers A and E holstered their service pistols and redeployed to obtain a better visual on Subject 1, who they had previously observed to be in possession of a handgun. Officers A and E drew their service pistols a second time with the belief the situation could again escalate to the point where deadly force may be necessary. The BOPC concluded that it was reasonable for Officer A and E to believe this incident had escalated to the point where deadly force may be necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A and E, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A and E’s first and second drawing and exhibiting of a firearm to be In Policy.

## Third Occurrence

According to Officer E, once in the rear parking lot, he/she unholstered his/her service pistol a third time as the individuals were being taken into custody. Officer E did so because he/she was aware that “a shooting had already occurred,” and based on the “tactical situation” and his/her “reasonable belief” that the situation could escalate to “another shooting.” Officer E holstered his/her service pistol a third time once the individuals were in custody.

In this case, the BOPC conducted an evaluation of the reasonableness of Officer E’s third instance of drawing and exhibiting a firearm. The BOPC noted that an OIS had

just occurred and the tactical incident was still ongoing, as the four individuals had yet to be taken into police custody. Officer E holstered his/her service pistol as he/she redeployed from the north end to the south end of the location to assist in the detention of the additional unsearched individuals as hostile community members began to gather around the scene. Upon arriving to the south end of the location Officer E drew his/her service pistol in the role of cover officer while other Department personnel detained the individuals without further incident. The BOPC concluded that it was reasonable for Officer E to believe this incident remained escalated to the point where deadly force may be necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer E, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer E's third instance of drawing and exhibiting a firearm to be In Policy.

- **Officer D**

According to Officer D, he/she arrived at the scene of a radio call where a vehicle matched a described "vehicle involved in an ADW shooting." Additionally, an individual had been observed with a possible "firearm" as reported by the PR, and the location was an area where rival gangs had been "engaged in numerous murders and shootings and ADW attempt murders." Officer D observed a male whom Officer D knew. Subject 1 looked in Officer D's direction and began to run away from the officers. As Subject 1 ran, Officer D observed Subject 1 grab with his/her right hand, "near the front jacket pocket waistband area," and clutch an "item," causing Officer D to believe Subject 1 may be "in possession of a firearm." Officer D drew his/her service pistol and held it in one hand at a "low-ready" position with his/her finger along the frame, because Officer D believed "that the situation could potentially escalate to the point where use of force may be justified."

In this case, the BOPC conducted an evaluation of the reasonableness of Officer D's drawing and exhibiting of a firearm. The BOPC considered the comments of the radio call, which indicated an individual was possibly in possession of a handgun and in an area known to be frequented by gang members. As Officer D arrived to the rear of the radio call location, he/she observed four individuals gathered in a group. The BOPC considered Subject 1's actions upon observing the officers. Officer D stated that he/she observed Subject 1 look in the officers' direction, grab his/her waistband, and run from the officers, leaving three unsearched individuals to be detained. The BOPC concluded that it was reasonable for Officer D to believe this incident had escalated to the point where deadly force may be necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer D, while faced with similar circumstances,

would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer D's drawing and exhibiting of a firearm to be In Policy.

- **Officer B**

According to Officer B, he/she was responding to a radio call of "seven males [...], hanging out in the back," in which the PR had observed "one of them with a black gun." Officer B was also aware that the area was known to be "a gang hangout" and that his/her partner was assigned to the "[...]," so they made the decision to "buy the radio call." As Officers B and D approached the location of the radio call, Officer B observed "four or five males [...]" sitting in the rear parking lot of the location. Officer B observed Subject 1 look in the officers' direction with "a surprised" expression. Subject 1 then placed his/her left hand on the ground and gripped "something that's in his/her waistband" with his/her right hand. Officer B observed Subject 1's "elbow start to raise" as Subject 1 began "running" from officers. Officer B observed Subject 1 grab what Officer B described as the "shape and color" of a "black gun." Officer B and Officer C entered the parking lot and followed Subject 1 north through the walkway in "containment" mode. As the officers approached the "northeast corner" of the apartment building, Officer B heard "one gunshot." Officer B unholstered and drew his/her service pistol "due to the tactical situation" and believed the situation could "escalate to the point where deadly force could be justified."

- **Officer C**

According to Officer C, he/she was responding to a radio call where, "approximately seven [males]" were to the rear of the location and in possession of "a black handgun." Officer C was familiar with the location as there had been "numerous shootings between rival gang members in that area." As Officer C approached the radio call location, he/she heard Officer D stating, "We have a runner, runner," over the radio. Officer C observed Officer B exit the police vehicle in front of Officer C. Officer C stated that he/she and Officer B chased Subject 1 in "containment" mode. As Officers B and C continued following Subject 1, Officer C "heard the shot" and was unsure if the shot had come from "Subject 1" or an officer. Officer C drew his/her service pistol and held it in a "low-ready" position with his/her "finger along the frame," because Officer C believed "that the situation had escalated to a deadly force situation."

In this case, the BOPC evaluated the reasonableness of Officers B and C's drawing and exhibiting of a firearm. The BOPC considered the comments of the radio call, which indicated that an individual was possibly in possession of a handgun, in an area known to the officers to be frequented by gang members. The BOPC also noted that as Officers B and C arrived to the rear of the location, Officer B observed Subject 1 look in the officers' direction and flee as Subject 1 clutched his/her

waistband area holding a handgun. Officers B and C exited their respective police vehicles and pursued Subject 1 on foot in “containment mode” when Officers B and C heard gunshots in the area where they last observed Subject 1 run towards. The BOPC considered that Officers B and C drew their service pistols after hearing those gunshots. The BOPC concluded in this case that it was reasonable for Officers B and C to believe this incident had escalated to the point where deadly force may be necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B and C, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers B and C’s drawing and exhibiting of a firearm to be In Policy.

Accordingly, the BOPC found Officers A, B, C, D, and E’s drawing and exhibiting of a firearm to be In Policy.

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

- **Officer A** – (pistol, four rounds)

According to the FID investigation, Officer A only recalled firing three rounds during this incident. According to Officer A, one round was fired before the malfunction of his/her service pistol and then two after Officer A cleared the malfunction. However, in other areas of Officer A’s transcripts he/she indicated, “I fired three more rounds.”

FID conducted a review of physical evidence and BWV and determined Officer A discharged a total of four rounds. One round was fired before the malfunction and three were fired after the malfunction was cleared. Additionally, the investigation determined Subject 1 was not struck by the gunfire.

**Background** – The OIS occurred in front of an apartment complex. This location was a two-story apartment building that contains four individual dwellings. On the north side of the building was a small lawn enclosed by a wrought iron fence that was approximately six feet tall. The parking lot area was approximately 43 feet long and 37 feet wide. On the south side of the parking lot was a rolling gate that separated the property from an alleyway. On the west side of the property was a dirt walkway that was approximately five feet wide. This walkway ran south from the front lawn area to the parking lot. The walkway was separated from the parking lot by a chain link fence that was approximately four feet tall. On the west side of the walkway was a separate chain link fence that was approximately five feet tall which separated the property from an adjoining residence.



The FID investigation revealed that when Officer A fired his/her first round, the background was the northwest portion of the apartment complex.

The FID investigation revealed that when Officer A fired his/her second, third, and fourth rounds, the background was the southeast portion of the residence to the west, a cinderblock wall, the engine compartment and front axle of a Lexus sedan, and a wrought iron fence with corrugated steel covering.

**First Volley – One round, in a southerly direction from an approximate distance of 25 feet.**

According to Officer A, he/she made “eye contact” with Subject 1 and observed that Subject 1 was holding a “black semi-automatic handgun” in his/her “front right waistband.” Officer A was “scared” and believed Subject 1 was about to draw his/her handgun and shoot Officer A or one of the other officers with him/her. Subject 1 ran north towards the officers, then began running west through the yard. Officer A was approximately “10 feet” from Subject 1 and believed that Subject 1 could “pull that firearm in a fraction of a second” and “shoot and kill” him/her and Officers E and F. Officer A heard officers give Subject 1 commands of “stop” and identify themselves as “police;” however, Subject 1 did not comply. Officer A further added that based on his/her training and videos he/she had seen, a “subject can shoot accurately on the move” and “kill an officer.” Therefore, Officer A aimed towards Subject 1’s “right side” at Subject 1’s “upper body, upper torso” area and discharged one round from his/her service pistol in Subject 1’s direction in “imminent defense” of his/her life, and the lives of Officers E and F.

**Service Pistol Malfunction**

According to Officer A, he/she shifted him/herself west of the location where he/she discharged his/her service pistol to maintain a visual on the Subject as he/she assessed that the “first round wasn’t effective” and that the Subject “changed his direction and began running southbound in the west walkway.” Officer A observed that the Subject was “still holding the firearm in his front waistband” and “saw his right elbow lift up” as the Subject twisted his upper body where Officer A believed the Subject may “take a position of advantage or a barricaded position” and “begin shooting” at Officer A. Officer A pressed the trigger of his/her service pistol to discharge a second round when he/she “heard a loud click” and observed that his/her service pistol had experienced a malfunction. Officer A dropped the keys and flashlight that were in his/her left hand and then cleared the malfunction from his/her service pistol.

**Second Volley – Three rounds, in a southerly direction from an approximate increasing distance of 40 to 55 feet.**

According to Officer A, the Subject began running “southbound through the west walkway” and was approximately “20 feet” away when Officer A observed the

Subject “still holding onto the firearm in his front waistband.” Officer A observed the Subject raise his “elbow up and his upper body jerk to the right” as the Subject’s arm created an “L shape away from his body.” Officer A stated he/she observed the Subject “twisting to either turn” or to find a “barricade position.” Officer A stated he/she was familiar with the location where the incident had occurred but was unsure if there was a doorway on the west side of the location. Officer A was concerned the Subject could secrete himself into an unseen doorway and shoot at Officer A from a “barricaded” position. Officer A stated he/she was concerned that the Subject was attempting to obtain a “position of advantage,” in that the Subject might turn, acquire a sight picture, and fire his handgun at Officer A and his/her partners. In an “immediate defense” of his/her life, and Officers E and F’s lives, Officer A aimed towards the Subject’s “upper back area” and discharged “two quick shots within succession of each other” from his/her service pistol. In assessing that his/her “second round was ineffective” and acquiring a “second independent sight picture,” Officer A discharged a “third round” towards the Subject. Officer A observed the “yellow apartment building” in his/her background and stopped firing his/her service pistol when he/she observed the Subject “discard” the handgun in a “westerly” direction and that the Subject “was no longer armed.”

The BOPC conducted a thorough review and analysis of the reasonableness and necessity of Officer A’s use of deadly force (First Volley). The BOPC noted that the Subject immediately turned away and fled westbound upon observing Officers A, E, and F. Rather than remain behind the cover of a parked vehicle, as Officer E did, Officer A chose to leave his/her cover and engage the Subject, exposing him/herself to a potential lethal threat and escalating the incident. In addition, Officer A stated that the Subject could have removed the handgun from his waistband; however, the mere possibility or fear that the Subject might remove a handgun did not present a situation where there was an imminent threat of serious bodily injury or death or the necessity to utilize deadly force. The BOPC did acknowledge that the Subject did not comply with officers’ commands and considered the concept of “lag time;” however, the Subject did not attempt to remove the handgun. The Subject had turned and was fleeing from the officers when Officer A discharged his/her first round. The BOPC noted that Officer A’s decision to leave cover, prior to discharging his/her service pistol, limited Officer A’s time, thus limiting his/her ability to assess the Subject’s actions.

The BOPC conducted a thorough review and analysis of the reasonableness and necessity of Officer A’s second use of deadly force (Second Volley). The BOPC considered Officer A’s decision to discharge three additional rounds from his/her service pistol, after discharging his/her first round and clearing a malfunction in his/her service pistol. The BOPC noted that the Subject appeared to be running away from the officers, towards the rear of the location, where the southern containment was in place. However, Officer A continued, without the benefit of cover, to move towards the Subject, who remained armed. The BOPC discussed Officer A’s perception that the Subject was turning to possibly take a barricade position. The BOPC also considered the video evidence presented in this case and

noted it did not support Officer A's assessment of the incident; therefore, there was no imminent threat of serious bodily injury or death.

The BOPC deliberated with concern in regard to Officer A's background and Officer A's decision to discharge the three additional rounds. In doing so, Officer A placed other officers, who were providing containment on the south side of the building, the detained individuals, and the occupied residents in danger. The BOPC concluded that Officer A's decision to do so was not reasonable nor was it necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would not believe the Subject's actions presented an imminent threat of death or serious bodily injury, nor that the use of lethal force would be objectively reasonable and necessary.

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