

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

USE OF DEADLY FORCE 043-20

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Rampart	7/7/20		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	3 years, 3 months
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Reason for Police Contact

Two uniformed officers attempted to contact a bicyclist suspected of causing a disturbance and being armed with a gun. The bicyclist fled from the officers. After an approximately five-minute pursuit of the bicyclist, an officer opened the driver's door of his/her moving police vehicle and intentionally struck the moving bicyclist with the vehicle door, causing him to fall from the bicycle.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 32 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, including any Minority Opinions; 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 June 8, 2021.

Incident Summary

On Tuesday, July 7, 2020, at 0119 hours, Officers A and B were dispatched to a call of a bicyclist who was causing a disturbance and armed with a gun. Officer A was the driver of a marked black police Sport Utility Vehicle (SUV) equipped with a Digital In-Car Video System (DICVS) and Officer B was the passenger. Partner Officers C and D heard the radio broadcast and responded to the area to assist Officers A and B.

Officers A and B had been assigned as partners approximately three times in a span of eight Deployment Periods (DP). According to the officers, they had prior tactics discussions regarding contact/cover responsibilities, lethal/less-lethal options and assignments, vehicle/foot pursuits, and de-escalation techniques.

Officers C and D had been assigned as partners a total of two times. According to the officers, they had prior tactics discussions regarding traffic stops, contact/cover, and lethal/less-lethal responsibilities. The officers did not have any conversations regarding foot pursuit concepts. Officer D stated as they responded to the radio call, that they discussed contact/cover responsibilities.

At 0059:42 hours, Officer B updated the officers' status and location (Code-Six) via their police radio. Officer B stated that he/she met with the victim, obtained crime information, and at 0102 hours, re-entered the police vehicle and began to search the area for the described suspect; however, were unable to locate him/her. Officers A and B did not activate their BWVs until after their initial contact with the victim.

At 0119 hours, Officers C and D observed a bicyclist (he Subject) pedaling north. According to the officers, the bicyclist was wearing clothing that matched the clothing described in the radio call comments. In addition, Officer C stated the bicycle was not equipped with a front light, in violation of Vehicle Code (VC) Section 21201(d)(1).

Officers C and D attempted to stop the Subject for the observed traffic violation and to ascertain if he was the suspect described in the radio call comments. Officer C stated as the Subject pedaled north on toward the officers' police vehicle, he looked in their direction and shook his/her head. The Subject increased his/her speed, now pedaling at a rate of 12-15 miles per hour (mph) and crossed in front of the moving police vehicle into the southbound lanes of traffic. Officer C told the Subject to stop and pull over, giving his/her commands out the open driver and passenger door windows. The Subject failed to stop and continued pedaling north, passing the police vehicle.

Officer C negotiated a U-turn and observed the Subject negotiate a westbound turn and then a southbound turn, failing to stop for a posted stop sign. Officer C intermittently activated the overhead emergency lights and continued to yell out the driver's side window ordering the Subject to stop; however, the Subject refused.

At 0119:45 hours, Officer D broadcast that the officers were attempting to stop the Subject and gave their location. Officers A and B heard the broadcast and responded with emergency lights and siren (Code Three).

The Subject continued pedaling south and then negotiated an eastbound turn. Officer C momentarily lost sight of the Subject. Officer C then heard what he/she believed to be a metallic object striking the ground from the northeast corner. Officer C stated that he/she did not see the Subject make a throwing motion or see what caused that noise. Officer C's BWV depicts him/her negotiating an eastbound turn, against a red-phase tri-light, and continue to pursue the Subject.

At 0120:04 hours, Officer D requested back-up. In response, Police Officers E and F responded. Officer E was driving a marked black and white police SUV equipped with a DICVS. At 0120:13 hours, Officer B activated his/her BWV while enroute to Officers C and D's location.

At 0120:15 hours, Sergeant A broadcast that he/she was responding from the police station. Sergeant A was driving a marked black and white police SUV equipped with a DICVS. At 0120:18 hours, Sergeant A activated his/her BWV.

The Subject continued to evade the officers and began to ride his bicycle on the north sidewalk continuing east.

At 0120:59 hours, Officer B broadcast that they were in the area.

Officer C's BWV captured Officer D ordering the Subject to get off his bike. The Subject refused and continued east in the eastbound lanes of traffic. Officers A and B caught up to Officers C and D's police vehicle and positioned their police vehicle behind them. At 0121:19 hours, Officer C activated his/her BWV.

As the Subject approached, Officer C accelerated his/her police vehicle and yelled for the Subject to pull over, out of the open driver's window. Officer C intermittently activated the overhead emergency lights while chirping the police siren.

At 0121:33 hours, Officer B updated the officers' location; however, incorrectly, Officer B broadcast the Subject was traveling west. At 0121:54 hours, Officer A activated his/her BWV.

The Subject continued to pedal east. Suddenly, the Subject negotiated a quick right turn into the west driveway of a gas station and then east onto the south sidewalk. Officer C accelerated his/her police vehicle, passed the Subject, and negotiated a southbound turn into the gas station's east driveway. Officer C was attempting to block the Subject's travel path by stopping the police vehicle on the sidewalk. The Subject maneuvered his bicycle around the rear of Officer C and D's police vehicle and began to pedal in a northeasterly direction. Officers C and D opened their respective doors, exited their police vehicle, and began to chase the Subject on foot. Officer D that stated he/she did

not believe the Subject was armed at this point based on the amount of time that had elapsed from the initial radio call. Officers C and D did not secure their police vehicle as they pursued the Subject on foot. Officers C and D pursued the Subject on foot approximately 235 yards.

Officer A positioned his/her police vehicle behind the Subject and became the primary unit in the pursuit. At the same time, Officers C and D continued to chase the Subject on foot.

As the Subject pedaled north in the northbound lanes of traffic, Officer A activated the overhead emergency lights and siren. Officer B's BWV captures him/her telling Officer A to get in front of the Subject.

The Subject pedaled north and then swerved into the southbound lanes of traffic, continuing north. Officer A stated the Subject was traveling at a rate of 10-13 mph.

Officer A continued to order the Subject to stop; however, he refused.

Meanwhile, Officers C and D continued to pursue the Subject on foot, running behind Officers A and B's police vehicle. Officer D was the lead officer, as Officer C followed.

At 0122:33 hours, Officer A unholstered his/her service pistol with his/her left hand. Officer A placed his/her gun out of the open driver's window with the barrel facing downward in a northern direction. Officer A stated that he/she had his/her left trigger finger along the frame. Officer A's BWV depicts he/she had his/her pistol out of the driver's window for approximately two seconds before he/she holstered his/her gun.

Once the Subject reached the next street, Officer A accelerated his/her police vehicle and activated the siren. The police vehicle passed the street as Officer B told Officer A to get in front of the Subject. The Subject maneuvered his bicycle away from the police vehicle and began pedaling east in the westbound lanes of traffic. Officer A turned off the siren, entered a parking lot located at the northeast corner, and drove through the lot onto the street. The officers continued following the Subject east as Officer A activated the overhead emergency lights and siren. Officers C and D discontinued their foot pursuit of the Subject and returned to their police vehicle.

Officers A and B began discussing courses of action to get the Subject to stop. At 0123:04 hours, Officer D activated his/her BWV.

As the Subject pedaled east in the eastbound lanes of traffic, Officer B advised Officer A that he/she was going to hit the Subject with the door. Officer B asked Officer A if he/she was ready, and Officer A acknowledged he/she was.

At 0123:05 hours, Officer B opened the front passenger door of his/her moving police vehicle as Officer A drove onto the opposing lanes of traffic. The purpose of this move was for Officer B to strike the rear tire of the Subject's bicycle with his/her vehicle door.

The Subject rode into the opposing lanes of traffic, accelerated, and negotiated a northbound turn. Officer B then closed the front passenger door of his/her moving police vehicle.

The Subject continued pedaling north, failing to stop for a posted stop sign.

At 0123:33 hours, the LAPD Air Unit arrived and the Tactical Flight Officer (TFO) broadcast that the officers in the police helicopter were overhead.

At 0123:37 hours, Officer A opened the driver's door of his/her moving police vehicle. Officer A stated he/she opened the driver's door in the event he/she had to exit his/her vehicle. The Subject continued north, failing to stop for another posted stop sign. Officer A continued to follow the Subject with the driver's door open.

The Subject then negotiated an eastbound turn, failing to stop for the posted stop sign. Officer A continued to drive with the driver's door of his/her police vehicle open. Although Officer B broadcast the correct street, Officer B inadvertently broadcast the wrong direction of travel.

Officers A negotiated an eastbound turn and began to have a discussion with Officer B about following a possibly armed suspect. Officer A advised Officer B he/she would be the contact and lethal officer and assigned Officer B as the less-lethal officer. Officer B then deployed the 40mm Less-Lethal Launcher (LLL), loading a 40mm eXact iMPact round into the Launcher.

Officer A then closed the driver's door of his/her police vehicle, as the Subject was still pedaling east.

The Subject then negotiated a southbound turn against a red light. As the Subject pedaled south, he swerved from the southbound lanes of traffic into the median strip and onto the northbound lanes of traffic. Officer A's BWV captured him/her asking Officer B if he/she was going to beanbag the Subject. Officer B told Officer A he/she was going to strike the Subject with the front passenger door. Officer A then began to drive in the median strip and northbound lanes of traffic, following the Subject.

At 0124:51 hours, Sergeant A's BWV depicts him/her negotiating a southbound turn and joining the pursuit. Sergeant A did not advise CD he/she was with the pursuit or declare him/herself as the Incident Commander (I/C). Sergeant A stated he/she did not broadcast that he/she was in the pursuit because he/she wanted to keep the frequency clear.

Responding police units attempted to block the Subject's path of travel with their police vehicles. The Subject was able to maneuver his bike around the responding police vehicles and continued south, swerving from the north and southbound lanes.

The Subject maneuvered his bicycle into the southbound lanes of traffic as he approached the next street. Officer A accelerated his/her police vehicle, drove onto the center left-turn lane, and began to parallel the Subject, who was still pedaling south on the passenger side of their police vehicle. Officer B's BWV depicted him/her placing the 40mm LLL out of the front passenger window and pointing the LLL toward the Subject as he/she yelled for the Subject to pull-over. Officer B later indicated he/she did it as a ruse and did not intend to fire. The Subject continued pedaling south.

After repeated commands to pull-over, Officer B returned the LLL into the vehicle. Officer A accelerated, passed the Subject, and attempted to block the Subject's travel path by maneuvering his/her police vehicle from the southbound left-turn lane into the southbound lane of traffic, directly in front of the Subject. As Officer A performed this maneuver, Officer B opened the front passenger door of his/her moving police vehicle in an attempt to stop the Subject by striking the Subject's bicycle with the front passenger door.

After an unsuccessful attempt to stop the Subject, Officer B closed the front passenger door of his/her police vehicle and the officers continued driving south.

The Subject continued pedaling south in the northbound lanes of traffic. The Subject swerved toward his left, as if negotiating an eastbound turn and continued south onto the eastbound turn lane. Officer A accelerated his/her police vehicle, opened the driver's door of his/her moving vehicle, and paralleled the Subject. As the police vehicle and the Subject continued south, Officer A pushed the driver's door outward, striking the Subject's right leg. The Air Unit had been tracking the Subject for approximately one minute and fifty seconds at the time the Subject was struck with the vehicle door.

Officer A estimated the police vehicle was traveling at a speed of 6 to 8 mph when the Subject was struck.

Officers A and B believed the driver's door struck the Subject's bicycle's rear tire. Officer B believed the Subject was traveling at a rate of 5-7 mph when the vehicle door struck him; however, an expert analysis later determined that the Subject was traveling at an approximate speed of 17 mph when the driver's door struck his leg.

Immediately after being struck by the vehicle door, the DICVS depicts the Subject losing control of his bicycle, swerving into the eastbound turn lane, and falling onto the street, landing on the right side of his torso.

The Subject was conscious and lying on the right side of his torso. Officer A approached the Subject, placed his/her left knee on the Subject lower back, and placed him on his stomach with his hands to his sides. The Subject was then taken into custody.

From the time Officers C and D first saw the Subject pedaling north until the impact, the Subject pedaled an approximate distance of 1.8 miles and fled for approximately five minutes and 58 seconds.

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	Yes	Yes
Officer B	No	Yes	Yes	N/A	N/A
Officer A	No	Yes	Yes	Yes	Yes
Officer C	No	Yes	Yes	Yes	Yes
Officer D	No	Yes	Yes	N/A	N/A
Officer E	Yes	Yes	Yes	Yes	Yes

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

B. Drawing and Exhibiting

The BOPC found Officer A's drawing and exhibiting of a firearm to be Out of 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.

Prior to the day of this incident, Officers A and B had worked together approximately three times in an eight-month time span. Officers A and B had prior tactics discussions regarding contact and cover responsibilities, lethal and less-lethal force options, vehicle pursuits, foot pursuits, and de-escalation techniques. Officers C and D had been assigned as partners a total of two times within the recent deployment period. According to the officers, they had prior tactics discussions regarding traffic stops, contact and cover, and lethal and less-lethal force options. Officer D stated as the officers responded to the radio call, they discussed contact and cover responsibilities.

While following the Subject, Officers A and B formulated a tactical plan to safeguard themselves and take the Subject into custody. Officer A designated him/herself as the contact officer and designated cover officer (DCO) and designated Officer B as the less-lethal officer. Officer A advised Officer B to remove the 40mm LLL from the storage rack in order for it to be utilized as an alternative force option due to the Subject possibly being armed and his in compliant behavior.

After Officers A and B negotiated an eastbound turn, following the Subject. Officer B advised Officer A that he/she was planning to strike the Subject's bicycle with the police vehicle door in order to stop the Subject from fleeing further. Officer A assented to Officer B's plan of utilizing the door as an impact device and maneuvered the police vehicle into a position adjacent to the Subject in order to facilitate Officer B's attempted door strike.

The BOPC was critical of Officers A and B's plan to utilize the police vehicle door as an impact device in order to destabilize the Subject's bicycle.

Assessment – As Officers A and B followed the Subject, they assessed that the Subject posed a possible danger to any nearby community members. Officers A and B believed that due to the Subject's earlier reported actions of threatening a community member with a handgun, there was a high likelihood of the Subject attempting to carjack a passing motorist or enter nearby residences to achieve a position of tactical advantage. Due to this perceived threat to the community, Officers A and B believed there was an exigency which motivated them to take the Subject into custody as soon as possible.

The BOPC was critical of Officers A and B's assessment of the Subject and the threat that he presented to the community. During the following of the Subject, he was riding his bicycle away from the officers and refusing to comply with their orders, but he did not approach any passing motorists or approach any residences. Despite the Subject's solely fleeing behavior, Officers A and B assessed the Subject's actions as

requiring immediate action on their part in order to keep the Subject from harming any nearby community members.

Time – Officers A, B, C, and D identified the Subject as the possible suspect from the “415 Man with a Gun” radio call and believed him to be armed with a handgun. According to the FID investigation, from the time Officers C and D first saw the Subject, until the impact, the Subject pedaled an approximate distance of 1.8 miles and fled for approximately five minutes and 58 seconds. During that time, Officers C and D used time to identify themselves and instruct the Subject to stop and pull over. Officers A and B used time to additionally identify themselves and to instruct the Subject to stop and pull over. In addition, Officers A and B used time to communicate with each other and formulate a plan to take the Subject into custody by utilizing the police vehicle’s door to strike the Subject’s bicycle in an effort to destabilize him and take him into custody.

The BOPC was critical of the officers’ use of time as a de-escalation method. Due to the Subject riding a bicycle and the officers driving police cars, the officers had the ability to continue following the Subject until he either became too tired to continue fleeing or wait until he discarded his bicycle and fled on foot. Absent any actions from the Subject that directly threatened nearby community members, the BOPC would have preferred the officers to have continued to follow the Subject in containment mode. Continuing to follow the Subject would have provided the officers with an opportunity to have the Subject surrender voluntarily or form an effective tactical plan utilizing additional officers and tactical resources that would have allowed the officers to safely take the Subject into custody.

Redeployment and/or Containment – Throughout the following of the Subject, Officers A, B, C, and D made multiple attempts to close the distance between themselves and the Subject, despite the possibility of the Subject being armed as described in the initial radio call. Officers B, C, and D, all attempted, at least once, to drive their police vehicle in front of the Subject and block his path of travel. After attempting to block the Subject’s path with their vehicle, Officers C and D attempted to apprehend the Subject, which resulted in a foot pursuit.

The BOPC was critical of Officers A, B, C, and D’s attempts to position themselves in front of the Subject as they attempted to apprehend him. Due to the Subject being described as being armed with a handgun, per the original radio call, and operating a bicycle, it would have been preferred for the officers to redeploy to a position of tactical advantage behind the Subject and continue to follow the Subject in containment mode until he attempted to flee on foot or submitted to arrest.

Other Resources – Officers A and B had a discussion about following a possibly armed suspect. Officer A advised Officer B that he/she would be the contact and lethal officer and assigned Officer B as the less-lethal officer. Officer B deployed the 40mm LLL and placed a 40mm round into the Launcher. Officer B then pointed the 40mm LLL out of the window at the Subject and repeatedly ordered him to “Pull

over.” Officer B stated that he/she did not intend to deploy the 40 mm LLL at the Subject, who was riding a bicycle, but only wanted to use it as a “ruse” to stop the Subject’s actions and de-escalate the situation. After repeated commands to pull over, Officer B returned the 40 mm LLL into the police vehicle.

The BOPC was critical of Officer B’s decision to exhibit the 40mm LLL from the passenger side of the vehicle. The 40mm LLL is intended to be used as a less-lethal force option, which is inappropriate to utilize when confronted by a potentially armed suspect. In addition, the 40mm LLL, when used to confront a potentially armed suspect, is intended to be used as a tool within a team of officers with other officers acting as designated lethal force cover officers (DCOs) in order to safeguard the 40mm operator. The BOPC further noted that the 40mm LLL should not be used on suspects that are fleeing, are on a raised platform, or are operating or riding on a moving conveyance.

Lines of Communication – Officers C and D observed the Subject riding a bicycle and matching the clothing description of the suspect in the radio call. They broadcast themselves Code Six on a “415 man with a gun.” They broadcast new Code Six locations as they reached different intersections while continuing to follow the Subject. As Officers C and D continued to follow the Subject, they heard a metallic sound as if a firearm had fallen to the ground. This led Officers C and D to believe that the Subject had discarded the handgun with which he had reportedly threatened the person reporting. Officers C and D both alerted each other of the sound they had heard and that they believed it to be a handgun being discarded. Throughout their following of the Subject, Officer C issued several verbal commands to the Subject, telling him to stop and pull over.

Officers A and B constantly communicated with each other during the following of the Subject. They delineated contact/cover and lethal/less-lethal force roles for each officer. Officers A and B discussed the use of different force options, such as the 40mm LLL and the doors of the police vehicle, that they could utilize to stop the Subject from fleeing and take him into custody. Additionally, Officers A and B identified themselves as police and gave numerous verbal commands to the Subject to stop and pull over as they followed him. Officers A and B also attempted to utilize bargaining with the Subject and indicated that if the Subject stopped they could “figure out” what was happening. Despite numerous attempts at verbal communication with the Subject, he continued to flee on his bicycle and yell back at the officers that he had not done anything.

The BOPC noted the numerous commands from the officers for the Subject to stop. The BOPC additionally noted the communication between Officers A and B as they assessed and formulated plans to take the Subject into custody. However, the BOPC was critical of Officer C and D’s communication with the additional responding units to the incident. When Officers C and D initiated the following of the Subject, they did not broadcast a following; instead they only broadcast a Code Six location followed by occasional updates with new Code Six locations. In addition, the use of a Code

Six broadcast without a request for back-up was also a concern to the BOPC. Officers who are confronting a possibly armed individual should summon additional emergency assistance due to the possibility of the situation escalating to the point where deadly force may be necessary. Officers C and D also did not relay the information that the Subject had possibly discarded a handgun during the following of the Subject.

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

1. Tactical Communication (Substantial Deviation, without Justification – Officers C and D)

While Officers C and D were following the Subject, they heard a metallic sound as the Subject passed under the freeway. Due to the radio call comments indicating that the Subject had been armed with a handgun, both officers believed that the Subject had discarded his handgun. Officers C and D relayed their individual observations to each other but failed to relay their observations to the additional responding units.

The BOPC was critical of Officers C and D's lack of communication with the additional responding units. Additional radio transmissions from Officers C and D's, which relayed their earlier observations of the Subject discarding his handgun, would have greatly affected the manner in which responding officers attempted to detain the Subject. The BOPC additionally discussed that Officers C and D did not immediately broadcast a back-up request nor did they broadcast a following when they initially attempted to detain the Subject and then began following him when he refused to stop. When attempting to detain a possibly armed suspect, officers should summon emergency assistance in order to mitigate the risk posed by a high risk stop of an armed suspect.

Based on the totality of the circumstances, the BOPC determined that Officers C and D's lack of communication regarding key tactical information to responding units was a substantial deviation, without justification, from approved Department tactical training.

2. Pursuing Possibly Armed Suspect (Substantial Deviation without justification – Officers A, B, C, and D)

After initiating a following of the Subject, Officers C and D drove in close proximity, directly behind the Subject, a potentially armed suspect. Officers C and D drove their police vehicle in front of the Subject in an attempt to block his path.

After Officers C and D attempted to apprehend the Subject with a foot pursuit, Officers A and B assumed the primary position. Officer A, at Officer B's direction, drove in front of the Subject and attempted to block his path with the police

vehicle. When the Subject did not stop, Officer A drove alongside the Subject and ordered the Subject to stop. The Subject then decelerated and negotiated an eastbound turn behind the police vehicle. After bypassing the Subject, Officers A and B lost sight of the Subject and were unable to locate him for a brief time period until he had moved eastbound. As they followed the Subject south, Officer A again maneuvered his/her police vehicle in front of the Subject in an attempt to block the Subject's path of travel, and Officer B attempted to strike the Subject's bicycle with the police vehicle door.

The BOPC was critical of Officers A, B, C, and D bypassing a potentially armed suspect and the officers' utilization of their vehicles to block the Subject's path of travel. By allowing a potentially armed suspect to be positioned behind them and alongside them, Officers A, B, C, and D placed themselves in a position of tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officers A, B, C, and D's bypassing of an unsecured and possibly armed suspect while attempting to apprehend the same suspect was a substantial deviation, without justification, from approved Department tactical training.

3. Separation (Substantial Deviation, without Justification – Officers C and D)

When Officers C and D followed the Subject, they initiated a foot pursuit of the Subject. In an effort to detain the Subject, Officer D ran east after the Subject. At this point Officer D was ahead of Officer C. Officer C remained in the intersection. After Officer D disengaged the foot pursuit, the Subject continued eastbound and was continued to be followed by Officers A and B in their police vehicle. Officer C, who was still near the intersection, called out to Officer D and advised him/her that the officers needed to retrieve their police vehicle. Officer C and D temporarily lost sight of each other as they attempted to locate each other and return to their vehicle.

The BOPC was critical of Officers C and D separating from each other while engaged in a foot pursuit. Officers need to be able to render immediate assistance to their partners whenever engaged in enforcement activities.

Based on the totality of the circumstances, the BOPC determined that Officers C and D's separation from each other led to them not knowing the other's exact location and did not allow them to render immediate aid to each other, which was a substantial deviation, without justification, from approved Department tactical training.

4. Tactical Planning (Substantial Deviation, without Justification – Officers A and B)

As Officers A and B followed the Subject eastbound, they formulated a tactical plan to utilize the door of the police vehicle as a force option to strike and

destabilize the Subject's bicycle in order to take him into custody. As Officers A and B proceeded eastbound, Officer B attempted to strike the Subject's bicycle with the front passenger door of the police vehicle. Officer B missed the Subject's bicycle, and the Subject continued eastbound. Officer B again attempted to strike the Subject's bicycle with the front passenger door of the police vehicle. Officer B again missed the Subject's bicycle.

The BOPC noted that Officers A and B were not trying to strike the Subject's person with the police vehicle when they attempted to utilize the door to destabilize the Subject's bicycle. This was evident on the BWV footage. Officer B explicitly told Officer A to not hit the Subject with the police vehicle. The BOPC was critical of Officers A and B's plan to utilize the door as a force option to apprehend the Subject. The use of a car door is not a force option that is taught by the Department and posed a significant risk of causing serious bodily injury to the Subject due to the Subject operating a moving bicycle at the times that Officer A and B attempted to strike the Subject's bicycle with their police vehicle doors as the police vehicle was in motion.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision to utilize the police vehicle doors as an impact device to destabilize the Subject's bicycle was a substantial deviation, without justification, from approved Department tactical training.

5. 40mm LLL Deployment (Substantial Deviation, without Justification – Officer B)

Officer B exhibited a 40mm LLL from the front passenger window of his/her police vehicle at the Subject, as the Subject fled on a bicycle. The Subject was non-compliant when Officer B ordered him to stop and get off his bicycle but was not violently resisting prior to Officer B's exhibiting of the 40mm LLL. Officer B, the passenger in his/her police vehicle, paralleled the Subject who was on his bicycle during this time and both the bicycle and the police vehicle were in motion. Despite the Subject being reported as being armed with a handgun, Officer B did not have any officers providing lethal cover when he/she exhibited the 40mm LLL at the Subject.

The BOPC was critical of Officer B's decision to exhibit the 40mm LLL out of the front passenger window and directed toward the Subject. Despite Officer B's stated rationale of utilizing the 40mm LLL as a ruse, the BOPC noted that Officer B loaded a 40mm round into the 40mm LLL and then pointed it at the Subject. Officer B's lack of a cover officer equipped with lethal force and the Subject's position on a moving conveyance were also factors that the BOPC was critical of when examining Officer B's deployment of the 40mm LLL.

Based on the totality of the circumstances, the BOPC determined that Officer B's decision to exhibit a loaded 40mm LLL out of the passenger window as a ruse in

an attempt to gain voluntary compliance from the Subject was a substantial deviation, without justification, from approved Department tactical training.

6. **Code Six** (Substantial Deviation, with Justification – Sergeant A)

Sergeant A did not place him/herself Code Six when he/she joined Officers A and B as they followed behind the Subject. However, he/she did broadcast that he/she was responding to the back up when he/she initially departed from the station. Sergeant A stated that there was heavy radio traffic when he/she arrived with the following, and he/she wanted to leave the radio frequency clear for the officers to broadcast necessary information. Sergeant A did not identify him/herself as the Incident Commander over Base frequency, which would have allowed the officers at scene, Communications Division, and the Watch Commander to know that a supervisor was present at the following. Also, Sergeant A did not provide direction to the units that were following the Subject.

The BOPC noted that the following of the Subject was a rapidly evolving tactical situation involving multiple marked police vehicles. Sergeant A arrived at the following approximately 30 seconds prior to Officer A striking the Subject with the door of the police vehicle. The compressed timeframe was not sufficient for Sergeant A to adequately assess the evolving tactical situation and gain sufficient situational awareness to be able to manage the incident.

The BOPC also noted that Sergeant A had ordered other units to not utilize the radio frequency in order to allow the units engaged in the following unrestricted access to the radio frequency. This extended to him/herself due to the heavy radio traffic that was already being broadcast by the Air Unit and units involved in the following. While Sergeant A did not place him/herself Code Six, he/she had initially shown him/herself responding to the incident when the initial back-up request was broadcast.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's lack of a Code Six broadcast and initiation of command and control in the following of the Subject was due to the short time frame that Sergeant A was present prior to the termination of the following and the dynamic and evolving nature of the incident. Sergeant A's actions were a substantial deviation, with justification, from approved Department tactical training.

- The BOPC also considered the following:
 - **Vehicle Code Violations** – Officer C followed after the Subject and drove through a red tri-light without activating his/her emergency lights and siren.
 - **Situational Awareness** – Officer B repeatedly broadcast the incorrect direction of travel when he/she and Officer A assumed the primary position in the vehicular following the Subject.

- **Pursuit Driving with Door Open** – Officer A drove for an extended period of time with his/her driver side door partially opened.
- **Protocols Subsequent to Categorical Use of Force** – Sergeant A conducted a NCUOF investigation of the incident. Due to the incident not being identified as a CUOF, protocols subsequent to a CUOF were not conducted, such as the separation or monitoring of the involved and percipient officers.

Command and Control

- Sergeant A was the first supervisor to respond to the incident and assumed the role of Incident Commander once the following had terminated. As Sergeant A responded to the following, he/she advised other responding units to not broadcast on Base Frequency in order to keep the frequency clear for the units that were actively engaged in the following. After arriving at the termination of the following, Sergeant A requested an RA for the Subject, organized a canvass for the discarded handgun, and initiated a non-categorical use of force investigation. During his/her non-categorical use of force investigation, Sergeant A interviewed the Subject and directed Sergeant B to assist him/her by taking photos of the Subject's injuries and the involved police vehicle and canvassing for witnesses to the use of force. Sergeant A additionally made notifications to the Watch Commander and the Traffic Division.

The BOPC discussed that Sergeant A arrived approximately 30 seconds prior to the termination of the following but did not take an active leadership role in the management of the following of the Subject. This lack of active leadership was due to the brevity of Sergeant A's involvement in the following and a lack of time which did not provide him/her the ability to accurately assess the rapidly evolving conditions and gain sufficient situational awareness to effectively manage the incident.

The actions of Sergeant A were consistent with Department training.

Sergeant B responded to the incident but arrived after Sergeant A and the termination of the following. Sergeant B assisted with the non-categorical use of force investigation. Sergeant B photographed the Subject, the Subject's injuries, and Officer A's police vehicle. Sergeant B canvassed for witnesses to the use of force and interviewed one witness.

The actions of Sergeant B were consistent with Department training.

These topics were to be discussed at 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 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.

In conducting an objective assessment of this case, the BOPC determined that Officers A, B, C, and D's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval. Sergeant A's actions were a substantial deviation, with justification, from Department policy and training.

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

B. Drawing and Exhibiting

- **Officer A**

According to Officer A, he/she drew his/her service pistol because he/she believed the Subject was the same suspect described by the radio call and believed he was possibly armed with a handgun. Officer A stated that once he/she realized the Subject was not holding a handgun in his hand and that he was likely concealing it or it was in his backpack, he/she immediately holstered his/her service pistol.

The BOPC conducted an evaluation of the reasonableness of Officer A's drawing and exhibiting of his/her service pistol.

The BOPC reviewed the set of facts and opined that after assuming the primary unit position in the following, Officer A closed the distance between him/herself and the Subject and drove alongside while engaging the Subject in conversation. During this verbal exchange, Officer A unholstered his/her service pistol and placed it out of the front driver's window of the police vehicle. Officer A noted that his/her reasons for unholstering were based on the earlier radio call comments that stated the Subject was armed with a handgun, however at the specific point in time that Officer A made contact with the Subject, Officer A was unsure if the Subject had the handgun in his hand or in his backpack. After observing that the Subject did not have a handgun in his hands and that he continued to flee without engaging in aggression towards the officers, Officer A holstered his/her service pistol.

The BOPC opined that Officer A unnecessarily and prematurely drew and exhibited his/her service pistol. Officer A could have determined that there was not a substantial risk that deadly force may be justified prior to his/her decision to draw and

exhibit his/her service pistol. When Officer A closed the distance to the Subject and drove alongside him, Officer A created a tactical situation with an elevated risk to him/herself and Officer B. In this tactical situation, Officer A's exhibiting of his/her firearm limited Officer A's control of the situation and forced him/her to multi-task by maintaining control of his/her service pistol with one hand, operate the police vehicle with his/her other hand, and engage with the Subject who was riding his bicycle alongside Officer A's police vehicle.

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 not 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 Out of Policy.

C. Lethal Use of Force

- **Officer A** – (police vehicle door, used as an impact device with intention to destabilize the Subject's bicycle, striking the Subject's right leg)

The FID investigation determined that the Subject's speed at the time of Officer A's door strike was approximately 17 mph.

According to Officer A, he/she utilized the front driver door of his/her police vehicle as an impact device to strike the rear tire of the Subject's bicycle in order to destabilize the bicycle and allow him/her and Officer B to take the Subject into custody.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness and necessity of Officer A's use of deadly force.

The BOPC discussed that there is no policy that specifically relates to detaining suspects riding on a bicycle. The use of a police vehicle door to destabilize a bicyclist has conceptual parallels to the use of a Pursuit Intervention Technique (PIT) on a motorcycle, as documented in the Department's pursuit policy. The use of a PIT on a motorcycle during a vehicle pursuit is regarded as an application of deadly force.

The BOPC noted that the use of the police vehicle door as an impact device when used on a suspect riding a moving conveyance constitutes a use of deadly force due to the likelihood of serious bodily injury occurring during the application of force. At the time Officer A utilized his/her door to strike the Subject's right leg, the Subject was not armed with a weapon, and Officer A had previously approached the Subject and visually verified that the Subject did not possess a weapon of any kind in his hands. The Subject was holding the bicycle handlebars with both hands and was fleeing from the officers on his bicycle. Officer A stated that he/she utilized the police vehicle door to avoid utilizing a higher level of force and to avoid the possibility of the

Subject carjacking community members or taking community members as hostages. At the time the police vehicle door was used as an impact device, the Subject was not presenting an imminent threat of serious bodily injury or death to the officers or community members, and therefore the use of lethal force, the use of the vehicle door while the vehicle was in motion, was not reasonable or necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would not have reasonably believed that the Subject's actions presented an imminent threat of death or serious bodily injury or that the use of deadly force was necessary or objectively reasonable.

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