

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

**OFFICER-INVOLVED SHOOTING – 064-18**

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

Hollywood      11/18/18

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

Officer A      13 years

**Reason for Police Contact**

Patrol officers observed a vehicle with no front license plate. Officers initiated an investigative traffic stop. After momentarily stopping, the vehicle fled at a high rate of speed. A short pursuit ensued. At the termination of the pursuit, the driver exited the vehicle holding a firearm, which resulted in an Officer-Involved Shooting (OIS).

**Suspects      Deceased ( ) Wounded (X)      Non-Hit ( )**

Male, 36 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on October 22, 2019.

## **Incident Summary**

Officers A and B were patrolling when Officer A observed a black vehicle exiting a driveway. Officer A was a Field Training Officer, and Officer B was a Probationary Officer. According to Officer A, he/she believed the vehicle was positioned to make a right turn. Officer A observed that the black vehicle did not have a front license plate and that there were two male occupants, the Subject (driver) and Witness A (passenger). According to Officer A, it had been his/her training and experience that suspects deliberately remove their license plates, or conceal their license plates, to hide their identity to victimize people, and this practice was common in Hollywood Division.

Due to the heavy flow of traffic in the area, Officer A stated that he/she drove past the black vehicle and pulled into the center median area of the roadway. Officer A advised Officer B that he/she wanted to take a closer look at the vehicle. Officer A anticipated the black vehicle would complete the right turn and continue in the officers' direction. However, Officer A observed the black vehicle negotiate a left turn from the driveway and proceed in the opposite direction. According to Officer A, this raised his/her sense of officer safety and alertness.

Officer A negotiated a U-turn and drove the police vehicle in the same direction as the black vehicle. The black vehicle continued driving in the number one lane. According to Officer A, the black vehicle would quickly accelerate and brake as it made sudden lane changes. Officer A opined that the black vehicle was looking for an avenue of escape but was unable to locate one. According to Officer A, based on the totality of events, he/she advised Officer B that they would conduct an investigative stop on the black vehicle. The black vehicle was forced back into the number one lane of traffic and continued driving. Officer A opined that the black vehicle was attempting to evade officers.

As the black vehicle continued driving, Officer A drove the police vehicle in the center median to avoid traffic and to get directly behind the black vehicle. As the police vehicle got closer, the black vehicle maneuvered into the number two lane and continued driving. Officer A merged into the number one lane of traffic and then into the number two lane as he/she activated the overhead lights of the police vehicle to initiate a traffic stop, which was captured on the vehicle's Digital in-Car Video System (DICVS).

Officers A and B were now behind the black vehicle as it continued driving. The black vehicle stopped in the number two lane as it faced heavy traffic. According to Officers A and B, the black vehicle collided with a minivan that was in front of them, just prior to the investigative stop. Officer B broadcast the officers' status and location (Code-6).

The black vehicle remained stopped as Officer A placed the police vehicle in park, in the number two lane.

Officers A and B exited their police vehicle and utilized the ballistic door panels as cover. According to Officer A, the driver's window of the black vehicle was up but

he/she could see the Subject from the sideview mirror. According to Officer A, the Subject was moving his shoulders and looking at Officer A through the rearview mirror, as if he was trying to size the officer up. Officer A stated that this raised his/her sense of officer safety. Officer A ordered the Subject to turn the vehicle off and to show his hands, however the Subject did not comply.

According to Officer A, he/she observed the Subject using his right arm, reaching toward his knees. Officer A feared that the Subject was attempting to arm himself or discard a weapon. Officer A unholstered his/her service pistol, which he/she held in a two-handed, low-ready position. Officer A pointed his/her pistol at the Subject, who was seated in the driver's seat of the black vehicle.

At this point, Officer A then used his/her left hand to press the horn, which activated a single burst from the police siren, to get the Subject's attention. As Officer A did this, he/she maintained his/her service pistol in his/her right hand and pointed in a low-ready position. Officer A then activated his/her Body Worn Video (BWV).

According to Officer B, he/she observed, through the passenger side view mirror, the Subject reach with both hands into the glove compartment. Officer B thought that the Subject was trying to conceal something or was reaching for a weapon. Officer B immediately communicated his/her observations to Officer A and unholstered his/her service pistol, which he/she held in a two-handed, low-ready position and remained behind cover of his/her ballistic door panel.

Officer A continued to order the Subject to open the door and show his hands, but he did not comply. Traffic in front of the black vehicle then cleared and the black vehicle drove away. Officer B holstered his/her service pistol and Officers A and B immediately entered their police vehicle. Once inside the police vehicle, Officer A's BWV captured him/her directing Officer B to request a back-up, and holster his/her service pistol, as he/she drove.

Officer B broadcast a request for a back-up unit. The black vehicle turned right, onto the on-ramp to the freeway. Officer B broadcast that the officers were in pursuit of the vehicle and provided the direction of travel. Sergeant A advised Communications Division (CD) that he/she was en route and monitoring the pursuit.

Officer A and B's DICVS captured the black vehicle reach the end of the on-ramp and immediately encounter slow moving traffic, which prompted the Subject to drive the black vehicle onto the right shoulder and then into the number three lane of traffic, where it was met with heavy traffic travelling at slow speeds.

According to Officer A, while doing so, the front passenger door of the black vehicle opened briefly and was then immediately closed. Officer A was concerned that the passenger was going to get out and start shooting at the officers. Officer A unholstered his/her service pistol.

Officer A's BWV captured him/her stating to Officer B that he/she believed the Subject was going to pull a gun on them.

Officer A and B's DICVS captured the black vehicle continue to slowly traverse from the number three lane of traffic into the number two lane of traffic. The DICVS captured the black vehicle continue in the number two lane of traffic for a very short distance before appearing to attempt to merge into the number one traffic lane. Due to slow and heavy traffic, the black vehicle was unable to merge. The Subject then stopped the black vehicle in the number two lane of traffic. Once the black vehicle stopped, Witness A placed his right hand outside the passenger window and extended his arm out.

Meanwhile, Officer A's BWV captured him/her continuing to point his/her service pistol at the black vehicle as he/she used his/her left hand on the steering wheel to maneuver through traffic. Officer A used his/her left hand to open the driver-side door. Officer A then placed his/her left hand back on the steering wheel to steer the vehicle, as it continued to slowly move forward, with the driver's door ajar.

According to Officer A, the Subject opened the black vehicle driver's door and began to exit the vehicle. As Officer A began to exit the police vehicle, he/she stated that he/she observed the Subject turn his back toward him/her, Officer A, and observed the Subject holding a black, semi-automatic handgun in his right hand. Officer A stated it appeared that the Subject was inserting a magazine into the handgun or it contained an extended magazine.

Witness B, whom was present in a vehicle on the freeway, next to the police vehicle, stated that the driver of the black vehicle (the Subject) exited the vehicle with a black handgun, in his left hand, which was pointed down.

Simultaneously, Officer B exited the police vehicle and unholstered his/her service pistol, which he/she held in a two-handed, low-ready position. Officer B remained behind cover of the ballistic door panel as he/she focused on Witness A, who was seated on the passenger side of the black vehicle.

Officer A had now fully exited his/her police vehicle, took a position behind the police vehicle door, and obtained a two-handed shooting position. According to Officer A, the Subject ran toward the center median, across the number one lane of traffic, which was also captured on the officers' DICVS.

The police vehicle continued to slowly move forward toward the black vehicle, which was captured on the officers' DICVS.

Prior to exiting the police vehicle, Officer A believed he/she placed the vehicle in park. However, he/she quickly realized he/she had failed to do so as he/she stood in the doorjamb. Officer A felt the police vehicle continue to slowly move forward.

According to Officer A, once the Subject reached the center median, the Subject placed his left hand on top of the median for support and jumped over, onto the northbound lanes of the freeway. According to Officer A, once the Subject jumped the center median, Officer A observed the Subject holding the handgun in his right hand, in a close-contact position.

Witness B stated that the Subject looked back in the officers' direction when he jumped over the median, however, Witness B did not see the Subject point the gun at the officers.

According to Officer A, the Subject then turned his head to the left. Officer A opined that the Subject was acquiring Officer A as a target and was going to turn and start shooting at him/her. According to Officer A, the Subject canted his body to the left, in his/her direction, with his/her right arm bent in an approximate 90-degree angle, while holding the handgun in his right hand near his torso. According to Officer A, he/she held his/her service pistol in a two-handed position, pointed it at the Subject's left side upper body, and discharged a controlled pair of shots. Officer A stated the rounds did not appear to have any effect on the Subject.

Officer A's BWV captured him release his/her left hand from his/her service pistol and place it along the top of his/her vehicle door, as the police vehicle continued to slowly move forward. According to Officer A, he/she assessed the situation and believed that the Subject was still in the same position. Officer A believed that the Subject was still a threat and that Officer A needed to fire again. At this point, Officer A's BWV captured him/her hold his/her service pistol in his/her right hand, while he/she maintained his/her left hand on the top of the police vehicle driver door. According to Officer A, he/she pointed his/her service pistol at the Subject's left, rear, upper body and discharged another controlled pair of shots. The shots did not appear to have any effect on the Subject.

Officer A's BWV captured the Subject running across the freeway, as Officer A discharged his/her third and fourth rounds.

Officer A's BWV activation was a late activation and began after Officers A and B had exited their police vehicle. Officer B did not activate his/her BWV until the incident terminated.

According to Officer A, after he/she discharged his/her last round, his/her sight picture appeared different. At this time, Officer A lowered his/her service pistol and observed that the Subject was halfway across the northbound lanes of the freeway.

Officer A's BWV captured the Subject running, across the freeway, as Officer A discharged his/her third and fourth rounds.

According to Officer B, he/she observed the Subject exit the black vehicle, run toward the center divider and jump over. Officer B then directed his/her attention back toward

the passenger side of the black vehicle. According to Officer B, he/she heard Officer A discharge two rounds in the direction of the Subject. Officer B then looked in the direction that the Subject fled and observed him running across the freeway.

According to Officer A, he/she transitioned his/her pistol from his/her right hand to his/her left hand. Officer A reached into his/her vehicle with his/her right hand, grabbed the gear shifter and placed the vehicle in park. Officer A then transitioned his/her pistol from his/her left hand, back into his/her right hand. According to Officer A, after discharging his/her service pistol, he/she could not see the Subject and was concerned that the Subject may take a position across the freeway and shoot at officers. Officer A's BWV captured him move around his/her police vehicle door, toward the center divider with his/her radio in his/her left hand and his/her service pistol in his/her right hand. According to Officer A, once he/she realized he/she was not behind cover, Officer A re-assessed and moved behind the vehicle door.

Officer B advised Officer A that Witness A was still seated in the front passenger seat.

Officer A broadcast a request for help. indicated that that shots had been fired, and gave the Subject's description and direction of travel.

Officer B directed his/her attention back to Witness A, who was still in the front passenger seat of the black vehicle. Officer B gave Witness A commands to show his hands and he complied. The DICVS captured Officer B continuing to give Witness A verbal commands to exit the black vehicle, with which he complied. Officer B then directed Witness A to lay on the ground. Once Witness A was on the ground, Officer B awaited additional resources before taking him into custody.

Meanwhile, the Subject continued running down an on-ramp to the 101 freeway. As the Subject ran, Witness C observed the Subject move an item from his right hand into his left hand. Witness C then observed the Subject throw the item into a palm tree, which was in a dirt area, adjacent to the on-ramp. The item was later located by officers and determined to be a pistol.

Upon arrival, Sergeant A set up a perimeter for a man armed with a gun who was last seen running down the freeway on-ramp. A perimeter was set up and the Subject was located and taken into custody without further incident. The Subject advised officers that he had been shot twice. A Rescue Ambulance was requested. The Subject was treated at scene and transported to hospital for treatment to two graze wounds caused by gunshots.

### **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's tactics to warrant a finding of Administrative Disapproval and Officer B's tactics to warrant a Tactical Debrief.

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

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

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

The BOPC found Officer A's lethal use of force to be In 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 value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the suspect's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)



## A. Tactics

### Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

#### Tactical De-Escalation 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 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.

According to the officers, they had been partners for approximately two Deployment Periods (DP's) and had discussed tactics, vehicle stops, vehicle pursuits, command and control, radio communications, and they also regularly debriefed after calls for service.

In this case, the officers observed that the black vehicle was driving on the roadway without vehicle license plates. The officers communicated their observations and discussed a plan to conduct an investigative stop on the black vehicle. While initiating the investigative stop, the black vehicle collided with the rear end of a minivan and then stopped in the roadway. The officers exited their police vehicle and attempted to establish lines of communication by giving the driver clear and concise commands to turn off the vehicle and show his hands. The driver did not comply with the commands and made several movements inside the black vehicle, which led the officers to believe he was possibly arming himself with a handgun. The black vehicle then drove away, resulting in a vehicle pursuit. The officers requested additional resources, communicated their observations, and continuously assessed the situation during the vehicle pursuit. At the termination of the vehicle pursuit, the officers were faced with a rapidly unfolding tactical situation on a congested freeway, when the driver immediately exited the black vehicle armed with a handgun. Faced with an imminent threat of serious bodily injury or death, one of the officers utilized lethal force to stop the deadly threat. The driver then fled from the location on foot.

Post Officer-Involved Shooting, one of the involved officers broadcast “Officer needs help! Shots fired!” and included a description of the Subject and his last known direction of travel. The officers continued to communicate with each other regarding Witness A, who was still in the black vehicle’s front passenger seat, assessed the situation, and waited for additional resources to assist them with setting up a perimeter for the driver and taking Witness A into custody. While ordering the Witness A out of the vehicle, the officer continued to de-escalate the situation by giving the passenger in the black vehicle clear and concise commands to exit the vehicle. The BOPC noted that the senior officer at scene directed his probationary officer to order Witness A out of the black vehicle prior to the arrival of additional units and that the Subject was placed in a prone position in close proximity to his vehicle, which did not give the officers optimal room to maneuver when clearing the vehicle and taking the Subject into custody. While the BOPC would have preferred the officers utilize more time to develop a tactical plan to clear the vehicle, place the Subject in a position that was a tactical disadvantage to him and to take him into custody, he ultimately complied with the officers’ commands and was taken into custody.

Additionally, when the K9 search team searched the area and located the driver, the officers utilized time to communicate their observations to each other, assigned individual roles and responsibilities, and formulated a tactical plan to take the possibly armed driver into custody without the use of force. The officers then gave the driver clear commands and instructions to exit from his location and submit to arrest. The driver complied with the commands and was taken into custody without incident.

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

- 1. Emergency Response Driving and Vehicle Operations/Tactical Vehicle Deployment/Situational Awareness (Substantial Deviation – Officer A)**

In this case, Officer A was near the end of the vehicle pursuit and still seated inside of his/her police vehicle when Officer A drew his/her service pistol in response to his/her observation that the passenger door of the black vehicle had opened. At that time, Officer A believed that the passenger was going to get out of the vehicle and shoot at the officers. Officer A continued to drive, for a short distance, behind the black vehicle with his/her service pistol in his/her right hand and his/her left hand on the steering wheel. According to a review of the BWV, when Officer A attempted to open his/her driver’s door, the interior door handle was blocked by the baton that Officer A had placed in between the door’s arm rest and window frame. Officer A was required to move the baton out of the way prior to opening the door and exiting the police vehicle. Officer A then observed the Subject exit the black vehicle while holding a handgun. Officer A did not place the police vehicle in park prior to exiting the vehicle. Consequently, Officer A’s police vehicle continued to roll forward toward the rear end of the black

vehicle, creating an unstable shooting platform. Officer A entered the police vehicle as he/she transitioned his/her service pistol into his/her non-dominant left hand and placed the police vehicle into park to avoid a traffic collision with the black vehicle causing a potential distraction from the driver who was still armed and outstanding, as well as the passenger who was potentially armed.

According to Officer A, he/she feared that Witness A was going to exit and start shooting at him/her and his/her partner. Consequently, Officer A made a conscious decision to not holster his/her service pistol and continued to maintain his/her service pistol in his/her right hand while driving less than five miles per hour. Officer A believed that if he/she did not have his/her service pistol drawn, he/she would be unable to defend himself/herself or his/her partner.

The BOPC evaluated Officer A's actions, statements, BWV, and DICV and noted that near the end of the vehicle pursuit, Officer A was faced with a rapidly unfolding tactical situation and was forced to make a split-second decision, during an extremely stressful situation.

The BOPC believed that Officer A placed himself/herself at a tactical disadvantage by maintaining his/her service pistol in one hand, while simultaneously driving and attempting to open his/her driver side door with the other hand. Officer A's decision to drive the police vehicle during a pursuit with possibly armed suspects, while simultaneously giving directions to Officer B, a relatively inexperienced probationary officer, and ultimately having to exit the police vehicle and engage an armed suspect, resulted in Officer A having to multi-task during a dynamic situation.

The BOPC was critical of this tactical decision and believed that it hindered Officer A's ability to place his/her police vehicle in park, which not only delayed his/her exit from the vehicle, but ultimately resulted in Officer A's vehicle coming to within approximately four feet of the rear end of the black vehicle, which is in contradiction to the two vehicle lengths proscribed by the Department's training. The BOPC believed that the close positioning of the police vehicle directly behind another vehicle, which still contained another potentially armed Subject, placed Officers A and B at a significant tactical disadvantage.

The BOPC took into consideration that this was a rapidly unfolding tactical situation, including the fact that the officers reasonably believed the Subject and Witness A were armed and were clearly evading them. Officer A's reasoning for drawing his/her service pistol while driving the vehicle was that he/she essentially wanted to be prepared to engage the suspects if they came out of their vehicle and started shooting at Officer A or his/her partner. While the BOPC understood Officer A's thought process, it led to a situation where he/she was multitasking and therefore, his/her attention was diverted from his/her primary responsibility of safely operating his/her police vehicle during a vehicle pursuit.

Therefore, based upon the totality of the circumstances, the BOPC determined that Officer A's decision to drive while maintaining his/her service pistol in his/her right hand, created a circumstance, which significantly reduced his/her ability to safely drive, stop and exit a police vehicle during a rapidly unfolding tactical situation. Officer A's inability to place the police vehicle into park resulted in the police vehicle moving forward and being positioned in close proximity to the black vehicle. This vehicle positioning jeopardized Officer A's safety and the safety of his/her partner. As such, 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:

### **1. Traffic Unit Request**

The investigation revealed that Officers A and B did not request a traffic unit to respond to investigate the traffic collision. According to Officer A, he/she believed that he/she requested a traffic unit to the area. The Force Investigation Division (FID) investigation determined that there was no follow-up investigation conducted to locate the other vehicle involved in the hit and run with the black vehicle. Additionally, a review of the Hollywood Area base frequency did not capture a request for a traffic unit. In this instance, the officers were focused on the traffic stop and subsequent vehicle pursuit and it is reasonable that, given the rapidly unfolding circumstances of the incident, the officers did not make the appropriate notification to Communications Division (CD).

### **2. Baton Placement in Police Vehicle**

The investigation revealed that Officer A's baton was not secured on his/her person or in the designated side handle baton holder mounted on the interior of the police vehicle's driver's side door. Instead, Officer A secured his/her baton on the interior of his/her driver's side door in an upright position, with the long end portion of the baton in the driver's door arm rest and the short end portion of the baton in the interior of the driver's door window frame. In this position, the baton blocked access to the driver's side interior door handle, which hindered Officer A's ability to quickly exit from his/her police vehicle.

As a result of this investigation, it came to the Department's attention that some officers have identified that the current placement of the baton holders in Ford Explorer police vehicles can result in the baton handle protruding into the seating area, which can cause officers discomfort, as well as potentially impede their egress from the vehicle.

### **3. Tactical Communication**

The investigation revealed that Officer A did not advise Officer B that the Subject exited the black vehicle armed with a handgun. Officer A was reminded that when tactically feasible, it is important to communicate relevant observations so that all involved personnel have an optimal understanding and situational awareness of the tactical incident.

#### **4. Single-Handed Shooting**

The investigation revealed that Officer A utilized a one-handed shooting grip on his/her service pistol as he/she fired the last two rounds from his/her service pistol. Although the Los Angeles Police Department Training Division teaches a one-handed shooting technique, a two-handed shooting grip would have been more tactically advantageous as it provides a more stable shooting platform. Officer A was reminded to utilize a two-handed shooting grip whenever tactically feasible.

#### **5. Utilization of Cover**

The investigation revealed that after the OIS, Officer A very briefly left his/her position of cover behind the driver's side door of his/her police vehicle, in an attempt to maintain visual contact with the Subject and broadcast the Subject's direction of travel. When Officer A realized he/she had moved away from cover and that the black vehicle had not been cleared, he/she immediately redeployed back to a position of cover. Officer A was reminded of the importance of utilizing cover when involved in a tactical situation involving an armed suspect.

#### **6. Tactical Planning**

The investigation revealed that Officer A directed Officer B to order Witness A out of the black vehicle and into a prone position before additional resources had arrived at the scene. Officers A and B were reminded that when tactically feasible, it was preferable to wait for additional resources and formulate a tactical plan before ordering a high-risk suspect out of a vehicle.

#### **7. High Risk Vehicle Stops**

The investigation revealed that Officer B ordered Witness A out of the black vehicle and directed him into a prone position in close proximity to the passenger side doors of the black vehicle. It was noted that Officer B was a probationary officer and was acting upon the direction of his/her Field Training Officer, Officer A. Officer B was reminded to position suspects in a manner that would not impede or interfere with the officers' ability to approach or clear a suspect vehicle.

#### **8. Preservation of Evidence**

The investigation revealed that Officer A directed Officer B to search the black vehicle. Officers A and B were reminded, whenever tactically feasible, that it is

preferable to leave evidence undisturbed until FID investigators can properly document and preserve the scene.

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 found that the tactics utilized by Officer A substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Additionally, the BOPC found that due to Officer B's status as a relatively new police officer his tactics did not substantially deviate from approved Department tactical training, thus requiring a finding of Tactical Debrief.

## **B. Drawing and Exhibiting**

- **Officer A**

### First Occurrence

According to Officer A, he/she gave the Subject commands to turn off the vehicle and to show his hands. The Subject did not comply with Officer A's commands and Officer A could see the Subject moving within the vehicle. Officer A then observed the Subject reach down with his right arm toward his knees. Based upon his/her observations and the Subject's unusual behavior, Officer A drew his/her service pistol because he/she was in fear that the Subject was arming himself or discarding a weapon.

### Second Occurrence

According to Officer A, the traffic on the freeway was heavy, which slowed the Subject down. The Subject then drove onto the right shoulder of the freeway. The Subject continued driving and, as the right shoulder began to widen, before the off-ramp, the Subject slowed down and started to veer to the left into the southbound lanes of traffic. At that point, Officer A observed the front passenger side door open partially. Based upon his/her observations, training and experience, Officer A drew his/her service pistol a second time because the black vehicle was boxed in traffic and he/she was afraid that the Subject or Witness A was going to stop, get out of the black vehicle, and start shooting at them.

- **Officer B**

### First Occurrence

According to Officer B, he/she looked through the passenger side view mirror of the black vehicle and clearly observed the Subject reaching into the glove compartment. At that point, Officer B believed the Subject was reaching to conceal something or reaching for a weapon to shoot him/her and Officer A. Based upon his/her observations, Officer B drew his/her service pistol.

### Second Occurrence

According to Officer B, when the black vehicle stopped in the number two lane of traffic on the freeway, he/she immediately exited the police vehicle and drew his/her service pistol because he/she believed, based upon his/her prior observations, that the Subject or Witness A were possibly armed with a handgun.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A (First Occurrence) and B (First and Second Occurrence), 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.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in determining the reasonableness of Officer A's (Second Occurrence) decision to draw his/her service pistol while driving his/her police vehicle. It should be noted that Officer A's Drawing and Exhibiting was also evaluated by the BOPC as part of his/her overall tactical decision making. The BOPC noted that this was a dynamic and rapidly unfolding incident involving a Subject who, during the initial investigative stop, collided with the rear end of a minivan and then stopped in the roadway. The officers then exited their police vehicle and gave the driver commands to turn off the vehicle and show his hands. The driver did not comply with the officers' commands and proceeded to make several movements inside the vehicle, which led Officer A to believe the driver was possibly arming himself with a handgun.

The Subject vehicle then fled the scene, resulting in a vehicle pursuit of a hit and run driver. Near the end of the vehicle pursuit, the Subject vehicle slowed down and started to veer into the southbound lanes of freeway traffic. At that point, Officer A observed the passenger side door of the Subject vehicle open and believed, based upon his/her observations, training and experience, that because the Subject vehicle was now boxed in traffic, the Subject vehicle was going to stop and the driver or the passenger was going to get out of the vehicle and start shooting at the officers. Consequently, Officer A drew his/her service pistol as he/she slowed his/her police vehicle and pulled behind the Subject vehicle.

As such, the BOPC determined that based on the totality of the circumstances, including the actions of the Subject and Witness A, before and during the vehicle

pursuit, an officer with similar training and experience as Officer A (Second Occurrence), while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

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

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

According to Officer A, he/she exited the police vehicle and assumed a position of cover behind the open driver's side door of the police vehicle. The Subject then quickly turned and ran toward the concrete center divider of the freeway. When the Subject reached the center divider, the Subject placed his hand on the center divider and hopped over into the northbound lanes of the freeway. At that point, Officer A observed that the Subject's right arm was bent at a 90-degree angle, in a close contact position and Officer A knew the Subject still had the handgun in his right hand. The Subject then canted his upper body to his left and turned his head in Officer A's direction. Officer A could see the Subject's beard and the left side of his face and believed that the Subject was acquiring him/her as a target and that the Subject was going to shoot him/her. Afraid for his/her life, Officer A remembered focusing on his/her front sight and believed he/she fired three to four rounds from his/her service pistol at the Subject to stop the threat. Officer A stopped firing once he/she determined that his/her sight picture had changed.

A review of Officer A's BWV by FID investigators revealed that he/she fired four rounds from his/her service pistol in approximately two and one-half seconds. The BWV captured Officer A firing the first two rounds from his/her service pistol utilizing a two-handed shooting grip. Officer A then placed his/her left hand on the top of the open driver's side door frame of the moving police vehicle and fired the last two rounds from his/her service pistol utilizing a one-handed shooting grip.

According to Officer A, when he/she fired the four rounds from his/her service pistol, he/she assessed his/her background and believed that the vehicles traveling on the freeway were stopped as the Subject ran across the lanes of the freeway. Additionally, Officer A also recalled that there was a giant sound wall on the freeway so he/she had a good background.

A review of Officer A's BWV and the officers' DICVS by FID investigators determined that northbound vehicle traffic continued driving during the OIS.

According to Officer A, each round that he/she fired from his/her service pistol was controlled and deliberate. Officer A could clearly see the front sight of his/her



service pistol and as Officer A assessed in between each round, he/she observed that the Subject did not go down.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in determining the reasonableness of Officer A's use of lethal force. The BOPC noted that this was a dynamic and rapidly unfolding incident involving a vehicle pursuit of a hit and run suspect who ultimately exited his vehicle armed with a handgun. At that point, Officer A was forced to make a split-second decision, during an extremely stressful situation, to protect his/her life and Officer B's life.

The BOPC further noted that during the initial investigative stop and at the termination of the vehicle pursuit, the Subject had the opportunity to leave his handgun in his vehicle and surrender to the uniformed officers. The Subject, however, did not surrender during the investigative stop and instead, chose to flee from the officers in his vehicle. At the termination of the vehicle pursuit, the Subject held onto his handgun and exited his vehicle. As the Subject began to flee across the freeway, Officer A observed the Subject manipulate the handgun, which he/she believed was consistent with a Subject loading a handgun. Additionally, consistent with his/her training and experience, Officer A observed the Subject make several movements with his head and body that were consistent with a Subject attempting to locate, assess, and shoot at the officers.

Officer A indicated in his/her statement that he/she evaluated his/her background and although the investigation determined that his/her perception of the status of the vehicle traffic on the freeway was not entirely accurate, the BOPC determined that it was reasonable for Officer A, at that moment, to believe the Subject was intending to shoot and was therefore an imminent threat to himself/herself, his/her partner, and the community.

As such, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

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