

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

OFFICER-INVOLVED SHOOTING – 065-18

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

77th Street 11/24/2018

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

Officer A 23 years, 11 months
Officer B 10 years, 8 months

Reason for Police Contact

Officers were working a crime suppression detail. While driving, the officers observed two male pedestrians standing on the sidewalk. One of the males was holding a handgun. The officers stopped their vehicle and ordered the pedestrian to drop the gun. The individual failed to comply and while running raised the handgun in the officers' direction resulting in an Officer-Involved Shooting (OIS).

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

Subject 1: Male, 35 years of age (non-hit, TASER injury only).
Subject 2: Male, 67 years of age (no injury).

Board of Police Commissioners' Review

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

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

Incident Summary

Police Officers A and B were conducting crime suppression. Officer A was the driver of an unmarked Sport Utility Vehicle (SUV). Officers A and B had been partners for approximately nine months. The officers routinely discussed tactical situations, contact and cover roles, lethal and less-lethal policies, communications, foot pursuits, vehicle pursuits, pedestrian stops, and consensual encounters.

While on patrol, both officers independently observed two males, identified as Subject 1, 35 years of age, wearing a white T-shirt, and Subject 2, 67 years of age, wearing a black tank top shirt. The two males were standing shoulder to shoulder on the sidewalk. According to the officers, the street was dark with low light conditions.

Officer B turned on his/her flashlight, aimed the light out the passenger side window and illuminated Subjects 1 and 2. According to both officers they independently observed Subject 1 holding a handgun down alongside his leg. Subject 2 had both hands behind his back.

According to Officer B, when he/she observed Subject 1 holding the handgun, he/she immediately yelled to his/her partner, "Gun. He's got a gun!" Officer A heard his/her partner yell, "gun", but he/she had also observed Subject 1 with the handgun. Officer A reacted by stopping their vehicle in the middle of the roadway. According to Officer A, this was done to prevent driving past the Subjects, exposing their backs to Subject 1 and making them vulnerable to an ambush. When their vehicle came to a stop, the officers immediately exited their respective doors.

Officer A's BWV depicted him/her exiting the police vehicle with his/her pistol drawn and then aiming it at Subject 1. Officer A initially took a position of cover next to the driver's side engine block and used the light attached to his/her service pistol to illuminate Subject 1. Subject 1 began running on the sidewalk. When Subject 1 runs alongside a Range Rover, he was momentarily out of camera view. The BWV depicted Officer A holding his/her pistol in a two-handed on-target position as he/she moved in the middle of the roadway. Officer A continued to use the light attached to his/her pistol to illuminate Subject 1 as Subject 1 ran alongside the parked Range Rover. As Subject 1 reached the front passenger quarter panel of the Range Rover, Officer A fired one round at Subject 1 from an approximately level position and an approximate distance of 23 feet. Subject 1 was not struck by the gunfire as the bullet struck the driver's side hood area of the Range Rover. Subject 1 continued running on the sidewalk, with Officer A following on the roadway.

Officer B's BWV depicted him/her using his/her flashlight to illuminate Subject 1 and Subject 2. He/she then unholstered his/her pistol, exited the vehicle and used the door for cover. According to Officer B, he/she immediately heard the distinct sound of a metal object striking the pavement in the area near Subject 1 and Subject 2's feet. Officer B ordered Subject 1 to drop the gun. Subject 1 ignored those commands, turned to his right and began walking. He then immediately transitioned to running on the

sidewalk. Officer B focused his/her attention back onto Subject 2 and used his/her flashlight to illuminate Subject 2. The BWV depicted Subject 2 standing in his original position on the sidewalk. According to Officer B, when he/she looked at Subject 2 a second time, he/she heard a single gunshot near his/her position. Officer B looked to his/her left and observed Officer A in front of their police vehicle and in the middle of the roadway. Subject 1 was still running on the sidewalk. Officer B then observed Subject 1 toss the handgun into the front yard of a residence with his left hand using what he/she described as an overhead throwing motion. According to Officer B, he/she then lost sight of Subject 1 due to the parked vehicles along the curb.

Both officers activated their BWV cameras after the OIS, which resulted in videos with no audio recordings of the initial pedestrian stop and subsequent shooting. According to the officers, they had no intention of stopping the males until they observed Subject 1 holding the handgun. This sudden observation caused them to react to the potentially deadly situation by taking immediate tactical action, thereby causing a delay in their activation of their BWV.

Officer B broadcast a “shots fired” and “officer needs help” call.

Subject 1 stopped running and attempted to climb over a chain link fence. According to Officer A, as he/she approached Subject 1 from behind, he/she observed that the Subject’s hands were empty. Believing it was safe, Officer A stated he/she approached Subject 1 and attempted a leg sweep to get him off balance. Simultaneously Officer A pulled Subject 1 away from the fence with his/her left hand while holding his/her pistol in his/her right hand.

Subject 1 was unphased and ignored the officer’s continuous commands to get on the ground. Officer A’s BWV then depicted him/her backing away to create distance between him/her and Subject 1. Officer B was then observed holding a position of cover east of Officer A with his/her TASER drawn.

Officer A’s BWV audio activated, and Officer B can be heard telling Officer A, “He tossed it. TASER, tase him.” Officer B warned Subject 1 he was going to be tased and told Officer A to tase Subject 1. Officer A holstered his/her service pistol and drew his/her TASER from its holster.

Subject 1 told the officers, “I did not have no gun man.” Subject 1 then lowered his left hand towards his waist, at which time Officer A deployed his/her TASER, striking Subject 1 in the right side of his abdomen above the waistline. At that point, Subject 1 obeyed Officer A’s command and laid face down on the sidewalk. As he did so, he continued questioning the officers and tried to pull the TASER darts from his body until he was taken into custody. Officer A’s BWV showed that he/she activated his/her TASER four times prior to Subject 1 being taken into custody. According to Officer A, he/she only recalled tasing Subject 1 twice during the incident.

Officer B's BWV camera began to record audio, and Officer A could be heard broadcasting a request for a Rescue Ambulance (RA). Subject 2 had now approached the location where Subject 1 was being detained and was refusing to obey the officers' commands.

Officer B broadcast the officers' correct location, and Officers A and B then stood by until backup units arrived to assist with taking both Subjects 1 and 2 into custody.

An LAPD Air Unit arrived overhead and began directing back up units to the scene and setting up a perimeter for containment. Officer A can be heard directing backup units to locate and secure Subject 1's weapon.

Officers C, D, E, and F were the first back up officers to arrive at scene. Officer C was observed holding his/her weapon in his/her left hand at a low-ready position. Officer C's BWV depicted Officer B standing next to a parked SUV with his/her pistol drawn and held at a low-ready position with his/her right hand. Officer A was shown standing in the street at the end of a driveway with his/her TASER drawn. Subject 2 was depicted leaning against a chain link fence at the same location, along with Subject 1, who was lying on the sidewalk at the end of the driveway. Officer B was then heard informing Officer C that Subject 2 needed to be taken into custody. Officer A then approached Officer C and directed him/her to take Subject 2 into custody.

Officer C directed Subject 2 to walk backwards toward the street. Subject 2 did so and then Officer C used a firm grip to control both of Subject 2's wrists. At that point, Officer D handcuffed Subject 2. Officers C and D escorted Subject 2 to their vehicle and monitored him until they transported him to the police station.

Officer B's BWV depicted him/her instructing Subject 1 to lay on his stomach. Officer B then holstered his/her weapon, approached Subject 1, and handcuffed him. Another officer then conducted a cursory search of Subject 1's waistband and pockets.

As Subjects 1 and 2 were being taken into custody, Officers E and F were directed by Officer A to search the area for weapons and evidence. Officers E and F located one handgun inside the fence on the driveway of the residence and a second handgun on the side of the front lawn.

Sergeant A was the first supervisor to arrive at scene. Sergeant A observed the officers taking the suspects into custody. He/she directed officers to locate additional evidence and secure the scene. Sergeant A then located Officer A, who informed him/her that an OIS had occurred and that he/she was the shooting officer. Afterwards, Sergeant A located Officer B and separated and monitored both officers until Sergeant B arrived at scene.

Sergeant B collected Officer B's BWV, obtained a Public Safety Statement (PSS), and monitored him/her. Sergeant A collected Officer A's BWV, obtained a PSS and monitored him/her.

Sergeant C arrived after Sergeant A. He/she broadcast that he/she was at scene and designated him/herself as the Incident Commander (IC). Sergeant C ensured that an inner and outer crime scene was established and that the involved/percipient officers were separated and monitored. Sergeant C also ensured that the Subject was being medically treated by an RA, a witness canvass was initiated, and a Command Post (CP) was established.

Los Angeles Board of Police Commissioners' Findings

- The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

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

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

The BOPC found Officer A's first, second, and third less-lethal use of force to be In Policy. The BOPC found Officer A's fourth less-lethal use of force to be Out of Policy.

E. Use of Lethal Force

The BOPC found Officer A's use of 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), 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:

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 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. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

- **Tactical De-Escalation**

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 nine Deployment Periods (DP's) and have discussed tactics, vehicle stops, vehicle pursuits, command and control, and radio communications. The officers also debrief after calls for service.

In this case, the officers were conducting crime suppression, and they observed Subject 1 holding a handgun as he stood next to Subject 2 on the sidewalk. The officers communicated their observations to each other, exited their police vehicle, and attempted to establish lines of communication by giving Subject 1 clear and concise commands to drop the handgun and show his hands. Subject 1 did not comply with the commands and attempted to flee the area while still in possession of the handgun. The officers engaged in a foot pursuit of Subject 1 and requested additional resources. As the foot pursuit concluded, the officers communicated their observations to each other and continuously assessed the situation. During the foot pursuit, Subject 1 pointed the handgun at an officer. Faced with an imminent threat of serious bodily injury or death, the officer utilized lethal force to stop the deadly threat. Subject 1 was then detained after the application of non-lethal and less-lethal force.

The officers maintained lines of communication by re-broadcasting their correct location for the RA and units responding to the "Help" call. The officers continued to communicate with each other and waited for additional resources to assist them with

taking the Subjects into custody. While waiting for additional resources, the officers continued to de-escalate the situation by giving the Subjects clear and concise commands to get on the ground and not move. When additional resources arrived on scene, the officers utilized time to communicate their observations to each other, assigned individual roles and responsibilities and formulated a tactical plan to take the Subjects into custody without the need for additional use of force.

The BOPC noted that the senior officer assumed the role of Incident Commander and directed the responding officers to form an arrest team and to also locate the Subjects' handguns.

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

1. Code Six

Officers A and B did not advise CD of their Code Six location.

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

The officers were initially traveling down a residential street and were not engaged in a specific activity. While they approached the suspects, who were standing on the sidewalk, the officers stated that they had no intention of conducting any detention or investigation on the suspects. Officer A recalled, "This was a spontaneous event." It was only when they observed that one of the suspects was armed with a handgun and raised it towards their direction that they initiated an investigation. As the officers' vehicle came to a stop, they immediately exited and focused their attention on the fleeing suspect, who was still armed with a handgun. Approximately six seconds later, Officer B broadcast a Help Call, along with their location.

In this situation, the officers were faced with a rapidly unfolding dynamic tactical situation and did not have sufficient time to broadcast their Code Six location. The BOPC discussed the specific details of the initial part of the incident and noted several factors, including that the officers were not engaged in any specific investigation and there was no initial intent to detain the suspects. Officer B recalled, "Our intentions were not to detain them." The officers' observation of the armed subject immediately required them to tactically deploy on the subjects. Officer B completed his/her initial broadcast, requesting help, at the first opportunity it was tactically feasible, which was approximately six seconds into the incident.

Based on the totality of the circumstances, the BOPC determined that in this situation, Officers A and B's actions were not a substantial deviation from approved Department tactical training.

2. Passing an Unsearched Suspect (Substantial Deviation – Officer A)

Officer A ran past a suspect, who was a potential threat, to pursue the suspect who was armed.

Officers, when faced with an ongoing tactical situation, must remain alert to improve their overall safety by their ability to recognize an unsafe situation and then work collectively to ensure a successful resolution.

In this case, Officer A exited his/her police vehicle and was standing in the middle of the street, parallel to Subject 2, who was standing on the sidewalk. Officer A knew that Subject 1 was armed with a handgun and had already begun to run from the officers. In an attempt to detain Subject 1, Officer A ran past Subject 2, who was later determined to have been armed with a handgun. Officer A's decision to run past an unsearched suspect placed him/her and his/her partner at a distinct tactical disadvantage and unnecessarily endangered both of them. Officer B also ran past Subject 2, however, his/her decision to do so was due to a different set of circumstances. Officer B heard the discharge of a firearm and was unsure who fired the round. The BOPC determined that as a result, Officer B was forced to make a split second decision to either join his/her partner who was in foot pursuit of a possibly armed suspect or remain behind to guard Subject 2, who had not been searched. The unenviable position that Officer B was forced into was a direct result of Officer A's decision to pursue Subject 1 and not stay behind with his/her partner.

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

3. Apprehension vs. Containment Mode

Officers A and B engaged in a foot pursuit of an armed suspect in containment mode.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in foot pursuit of an armed suspect.

In this case, Officer A was initially in containment mode of an armed suspect. Officer A remained on the street and utilized the parked vehicles as cover as the subject ran on the sidewalk. Officers A and B maintained a line of sight with one another and remained close enough to render aid immediate aid, if necessary. The BOPC also examined the distance between both officers during the incident and determined that no separation, either by distance or barrier, occurred.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were reasonable and did not substantially deviate from approved Department tactical training.

4. Approaching an Armed Suspect (Substantial Deviation – Officer A)

Officer A left cover and approached Subject 1, who Officer A had previously observed to be armed with a handgun.

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

In this case, Officer A placed him/herself at a tactical disadvantage by leaving cover and initiating physical contact with a Subject who was possibly armed, without the benefit of an immediate cover officer. The BOPC considered Officer A's general concern for public safety concerning Subject 1 climbing over the fence but determined that there were no specific facts articulated that would indicate such a significant danger to public safety that it outweighed the risk to him/herself. By taking unilateral action, Officer A took an unnecessary risk, and the BOPC would have preferred for him/her to wait for his/her partner behind cover and request additional resources so that they could communicate, assign contact and cover roles, and devise a plan to take Subject 1 into custody.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were a substantial deviation, without justification, from approved Department tactical training. The BOPC directed this topic be discussed during the Tactical Debrief

5. Tactical Communication/Tactical Planning

The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, establish designated roles and communicate during

critical incidents thus ensuring a coordinated effort and successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, following the foot pursuit, both officers momentarily holstered their service pistols, temporarily leaving them without the benefit of a cover officer. Although Officer B recognized and corrected this issue. The BOPC would have preferred that the officers communicate their intentions with each other prior to transitioning from lethal to less-lethal roles.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, the officers' actions were not a substantial deviation from approved Department tactical training.

6. Use of Force Warning

Officers A and B did not provide a complete Use of Force Verbal Warning prior to the deployment of the TASER less-lethal force option.

Officers shall, when feasible, give a verbal warning prior to using less-lethal force on a suspect in an effort to gain compliance and afford the suspect the opportunity to submit to an arrest without injury.

In this case, the officers were faced with a rapidly unfolding situation with an armed suspect. According to Officer A, Subject 1, who had previously been seen with a handgun, reached for his waistband, creating an imminent need to stop his actions in order to prevent the situation from escalating.

The BOPC considered the totality of the circumstances related to this incident. Specifically, the officers had observed Subject 1 armed with a handgun, Subject 1 actively attempted to flee from the officers, and when Subject 1 was pulled away from the fence, he continued to refuse to comply with commands and cooperate with the officers. The FID investigator's review of Officer A's BWV determined that Subject 1 lowered his left hand towards his waist, escalating the situation. This resulted in Officer A having to immediately react to Subject 1's actions.

The BOPC determined that although Officer A did not provide a complete Less-Lethal Use of Force Warning, he/she did give Subject 1 numerous commands to "get on the ground," which satisfied the "command" portion of the Use of Force Warning. The officers' commands were clear and concise. Officer B also warned Subject 1 that he would be "tased." In an effort to stabilize and de-escalate the situation, Officer A deployed the TASER as a less-lethal force option prior to advising Subject 1 that it would hurt or may cause injury.

Based on the totality of the circumstances, the BOPC determined that Officer A's

actions were not a substantial deviation from Department policy or approved tactical training.

7. Utilization of Cover (Substantial Deviation – Officer A)

Officer A did not utilize available cover as he/she awaited the arrival of additional resources.

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing their own exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options by using available cover.

In this case, after the application of the TASER, Officer A maintained his/her position in the street with no barriers between Subject 1 and him/herself. Both Subjects 1 and 2 were not in custody at this time, nor had they been searched. It was noted that there were several vehicles in the area that could have been utilized as cover by Officer A, and he/she therefore failed to redeploy to available cover where he/she could have waited for additional resources and plan a coordinated effort to take Subject 1 into custody.

Based upon the totality of the circumstances, the BOPC determined that Officer A unnecessarily endangered his/her safety without sufficient articulable facts to support that his/her actions were reasonable under the circumstances, which was a substantial deviation, without justification, from approved Department tactical training.

The above 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 are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

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

In conducting an objective assessment of this case, the BOPC determined that the tactics utilized by Officer A substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

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

Debrief.

B. Drawing and Exhibiting

- According to Officer A, he/she observed Subject 1 point a firearm at him/her and Officer B, causing Officer A to feel that they were in an immediate defense of life or possible ambush situation. Officer A simultaneously drew his/her service pistol, quickly stopped, and exited the police vehicle as Officer B did the same. Officer A took a position of cover next to the driver's side engine block and used the light attached to his/her service pistol to illuminate Subject 1.
- According to Officer B, he/she was sitting in the police vehicle on the passenger side as they drove up to Subjects 1 and 2 who were standing on the sidewalk. Officer B used his/her handheld flashlight to illuminate Subjects 1 and 2 and immediately observed Subject 1 holding a handgun in his left hand. Officer B immediately advised Officer A, "Gun. He's got a gun." Officer B simultaneously opened his/her door, unholstered his/her service pistol, and exited the police vehicle. Officer B believed that if Subject 1 chose to target him/her, the incident could escalate to a point where Officer B would need to use deadly force to protect him/herself or his/her partner.

According to Officer B, he/she drew his/her service pistol a second time because Subject 2 could produce a firearm, and Subject 1 could possibly be armed with an additional handgun.

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

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

C. Non-Lethal Use of Force

- **Officer A** – According to Officer A, he/she grabbed Subject 1's arm and pulled him off of the fence while simultaneously conducting a leg sweep with his/her left leg to knock Subject 1 off balance in an attempt to place Subject 1 on the ground. Officer A's non-lethal applications of force prevented Subject 1 from fleeing.

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 believe that the same applications of non-lethal force would be reasonable to overcome Subject 1's resistance and prevent his escape.

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

D. Less-Lethal Use of Force

- **Officer A** – (TASER, three (3), five-second TASER activations. One (1), two-second TASER activation.)

First TASER Activation – One, five-second activation in probe mode, from an approximate distance of seven feet.

According to Officer A, both officers gave Subject 1 commands to get on the ground. Subject 1 refused to get on the ground and then placed his hands near his waistband. Fearing that Subject 1 was arming himself with a weapon, or the same weapon, Officer A holstered his/her service pistol, drew his/her TASER, and activated it in probe mode for a five-second cycle.

Second TASER Activation – One, five-second activation in probe mode.

According to Officer A, Subject 1 was reaching in his waistband area, and he had not been searched. The investigation determined that Officer A activated his/her TASER in probe mode for a five-second cycle.

Third TASER Activation – One, five-second activation in probe mode.

According to Officer A, while Subject 1 was lying on the ground, he reached for his waistband area again and attempted to pull out the (TASER) darts. Officer A then activated his/her TASER for a five-second cycle to stop Subject 1's actions.

Fourth TASER Activation – One, two-second activation in probe mode.

According to Officer A, "I believe it was part of his (Subject 1's) movements. He was still unsearched and attempting to remove tasers and moving his hands around." Officer A activated the TASER to stop Subject 1's actions.

The BOPC reviewed and conducted an analysis of each of Officer A's TASER activations. The BOPC noted that Officer A had observed that Subject 1 was armed with a handgun prior to and during the foot pursuit. Although Subject 1's hands were empty when he attempted to climb over the fence, Officer A could not be sure that Subject 1 was not armed. Subject 1 moved his hand toward his waist, resulting in Officer A discharging his/her TASER. Once on the ground, Subject 1 moved his hand toward his waist again, and Officer A responded by activating his/her TASER again. Subject 1 then attempted to remove the TASER darts from his body before he had been handcuffed and searched, which resulted in an additional TASER activation. In the review of the fourth TASER activation, the BOPC noted that Officer A's BWV was at some points inadvertently blocked by his/her hand as Officer A held

his/her TASER, however, it was clear in the video that Subject 1 was no longer moving at the time of the fourth TASER activation.

The BOPC determined that based upon the totality of the circumstances, an officer with similar training and experience as Officer A, while faced with similar circumstances, would believe the first three applications of less-lethal force to stop Subject 1's actions were objectively reasonable, however, the fourth application of less-lethal force to stop Subject 1's actions was not objectively reasonable.

Therefore, the BOPC found Officer A's first three applications of less-lethal force to stop Subject 1's actions to be In Policy. The BOPC found Officer A's fourth application of less-lethal force to stop Subject 1's actions to be Out of Policy.

E. Lethal Use of Force

- **Officer A – (pistol, one round)**

According to Officer A, he/she initiated a foot pursuit of Subject 1 in containment mode. Officer A was able to catch up to Subject 1 and was parallel to him when Subject 1 looked toward Officer A's direction and raised the firearm with his right hand. In defense of his/her and his/her partner's life and not knowing if Subject 1 was going to shoot, Officer A fired one round from his/her service pistol at Subject 1 to stop his deadly actions.

In this case, the BOPC conducted a thorough review of the investigation. During its review, several factors were noted in determining the reasonableness of Officer A's use of lethal force. The BOPC considered that this incident involved officers who were driving down a residential street and suddenly observed Subjects 1 and 2, who were standing on the sidewalk. The incident rapidly and dynamically escalated as the officers observed that Subject 1 was holding a firearm. Subject 1 began to run from the officers while still holding his firearm. As Officer A engaged in a foot pursuit, he/she observed Subject 1 look towards him/her and raise the firearm. At this point, Officer A did not know if Subject 1 was going to shoot him/her or his/her partner, Officer B.

The BOPC determined that it was reasonable for Officer A to believe that Subject 1's actions constituted an immediate deadly threat.

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 Subject 1'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.