

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

**OFFICER-INVOLVED SHOOTING – 048-20**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Southwest	10/17/20		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	3 years, 8 months
Officer B	3 years, 8 months

**Reason for Police Contact**

Officers A and B were on patrol when they observed a shooting in progress. Subject 1 pointed a pistol in the officers' direction, resulting in an Officer-Involved Shooting (OIS).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject 1 Male			
Subject 2 Male			
Subject 3 Male, 33 years of age			

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations, including any Minority Opinions; the report and recommendations of the 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 September 28, 2021.

## **Incident Summary**

On October 17, 2020, during the evening hours, Victims A, B, C, and three unidentified males, were playing dice on the west sidewalk of a street.

A nearby security camera covered a portion of the street and both sidewalks, including the area of the aforementioned dice game.

According to Victim A, he left the location briefly and drove to a nearby grocery store in his vehicle. After making his purchases, Victim A drove back to the location, and parked along the west curb, facing south, adjacent to the dice game. According to Victim A, his trip to the grocery store was uneventful. He denied being involved in any disputes that may have prompted this incident. During his interview with investigators, Victim A admitted to being a former gang member and referred to the location of the dice game as a "red area."

Police Officers A and B were conducting patrol in the area. They observed a Chevrolet Tahoe accelerate and speed away and decided to follow the vehicle for further investigation. The officers' intentions were to catch up with the vehicle and run the license plate number.

As the officers drove north, Officer A retrieved his/her flashlight and held it in his/her left hand, along the left side of the steering wheel. The officers' route took them toward the location where the dice game was being played.

Meanwhile, Victim A opened the driver's side door of his vehicle but remained inside for approximately 12 seconds. During that time frame, security video captured the Tahoe drive northbound on the street. The Tahoe continued north and drove past Victim A as he was seated in his vehicle.

As Victim A exited his vehicle, a gray four-door Chevrolet Malibu drove south on the street. The driver of the Malibu was Subject 3, the registered owner of the vehicle. In addition to Subject 3, security video revealed that there were at least two additional occupants inside of the Malibu; one front passenger (Subject 1) and one rear passenger (Subject 2).

As captured by security video, the Malibu appeared to slow down as it drove past Victim A. Victim A looked in the direction of the Malibu, then walked in a northerly direction, toward the rear of his vehicle. According to Victim A, he was unable to see how many occupants were inside of the vehicle, nor could he provide a description of them. The Malibu stopped in the southbound lane of the roadway, just south of Victim A's vehicle.

As this was occurring, security video captured the officers' headlights as they drove north on the street. Officer A observed the Malibu abruptly stop in the southbound lane. According to Officer A, he/she then observed the front passenger (Subject 1) exit the vehicle.

As captured by security video, Subject 1 opened the front passenger side door, exited, and using his right hand, pointed a firearm in a northerly direction, toward Victim A. The video then captured two muzzle flashes that appeared to be emitting from the firearm.

According to Victim A, he observed flashes and heard shots being fired. Fearing for his safety, Victim A ran in a westerly direction, toward the sidewalk, knocking over a blue recycling bin in the process. Victim A then ran north on the west sidewalk.

Subject 1 then turned in a counterclockwise direction, while continuing to hold the firearm in his right hand, at chest level. Subject 1 pointed the firearm in a westerly direction, toward Victims B, C, and the unidentified individuals. Subject 1 then placed his left hand near the top of his firearm, and made a motion with his hand, as if he were attempting to chamber a round.

Nearly simultaneously, Subject 2 exited the rear passenger side of the Malibu. As captured by security video, Subject 2 ran in a northwesterly direction, toward Victim A. As he did so, security video captured a muzzle flash emit from Subject 2's upper chest area. According to Victim A, he heard footsteps behind him and opined that he was being chased; however, he did not look back to see who was behind him.

Officers A and B did not observe Subject 2 exit the vehicle and were initially unaware of his presence.

According to Victim C, he heard the gunshots and observed the barrel of a gun and smoke near the passenger side of the Malibu. Victim C said he ducked down when the shots were being fired, and never observed the suspects.

According to Victim B, he initially believed the gunshots were fireworks. Once he realized the suspects were shooting, he went down to the ground and sought cover behind nearby vehicles. According to Victim B, his back was to the street at the time of the incident; therefore, he never observed the Subjects.

According to Officer A, as soon as Subject 1 exited the vehicle, he/she heard multiple gunshots and observed approximately four to five muzzle flashes. Officer A observed Subject 1 facing in a southerly direction, and believed he was firing in their (the officers') direction. As captured by BWV, Officer A stopped his/her vehicle in the northbound lane of the roadway, facing north.

According to Officer A, it was not feasible to place his/her vehicle in reverse and redeploy. He/she felt reversing would place him/her and his/her partner in more danger and give the advantage to the Subjects.

According to Officer B, as they traveled north, he/she heard at least three gunshots and observed one muzzle flash emit from the passenger side of the Malibu. Officer B stated that the sound of the gunshots was not identical; therefore, he/she believed multiple guns were being fired. Based on his/her observations, Officer B believed the Subject(s) were shooting at him/her and Officer A. Officer A was not initially aware of the presence of the victims on the west sidewalk.

Officer A estimated he/she stopped his/her police vehicle approximately 40-50 feet south of the Malibu. The investigation determined that Officer A stopped approximately 41 feet south of the Malibu.

Fearing that Subject 1 was going to kill him/her and his/her partner, Officer A opened the driver's side door with his/her left hand and unholstered his/her pistol with his/her right hand, while still seated in the vehicle. According to Officer A, since everything happened so fast, he/she did not have time to place the officers' vehicle into park. He/she kept his/her right foot on the brake pedal, and placed his/her left foot onto the street. Officer A then stood up and partially exited the vehicle, using his/her door as cover.

Officer A transitioned his/her pistol into a two-handed shooting position and pointed the muzzle in a northerly direction, toward Subject 1. According to Officer A, he/she ordered Subject 1 to stop, but he/she did not react or comply with Officer A's command. Officer A added, "It happened so quick that I just didn't really have too much time to - - really say anything."

Nearly simultaneously, Officer B opened the passenger side door and transitioned his/her flashlight from his/her right hand, into his/her left hand. As he/she exited the vehicle, Officer B unholstered his/her pistol with his/her right hand and held it in a one-handed shooting position, with the muzzle pointed in a northwesterly direction, toward Subject 1. As he/she did so, Officer B positioned him/herself east of the open passenger side door, utilizing the engine block as cover.

According to Officer B, they just stumbled upon the situation, he/she did not have time to go Code Six upon arrival. Officer B added, "It's better to defend myself, protect my partner, protect myself."

According to Officer B, since everything happened so fast, he/she did not have time to communicate his/her observations with Officer A prior to exiting the vehicle. However, Officer A recalled Officer B say, "They're shooting" prior to exiting the vehicle.

As captured by security video, Subject 1 walked west, and positioned him/herself just west of the open front passenger side door of the Malibu. As he/she did so, Subject 1 held the pistol in a two-handed shooting position, with the muzzle pointed in a west to southwesterly direction. According to Officer A, Subject 1 appeared to be firing toward the west sidewalk. Officer A was unable to see who or what Subject 1 was firing at, due to parked vehicles blocking his/her view of the sidewalk.

At the time of the incident, there were multiple vehicles parked along the west curb, including Victim A's vehicle.

As captured on security video, Subject 1 then turned toward the officers, while holding the pistol in a two handed, low-ready position. Subject 1 raised the pistol to chest level and appeared to point the muzzle in the officers' direction.

According to Officer A, "So, he was shooting in in my direction because I saw muzzle flashes. I was scared. I took out - - unholstered my weapon fearing that he was going

to try to kill me or my partner and shot back at him.” Officer A fired six rounds at Subject 1, in a northwesterly direction, from an approximate distance of 63 feet.

According to Officer A, he/she aimed his/her pistol at Subject 1’s torso area as Subject 1 stood near the passenger side of the Malibu.

Officer A recalled firing his/her first volley prior to Subject 1 pointing his/her pistol toward the west sidewalk. However, a review of the security video determined that the officers’ vehicle was still driving north as Subject 1 pointed his pistol toward the west sidewalk.

The OIS occurred prior to Officers A and B activating their BWV devices and was captured by the devices’ two-minute video buffer; therefore, their BWV did not capture the sound of the gunfire. In addition, due to the officers’ positions, their BWV did not capture Subject 1’s actions at the time of the OIS.

During a subsequent examination of the Malibu, investigators determined that the front passenger side door sustained two perforating impacts; one went through the door and the other through the window.

Subject 1 ducked down and entered the front passenger seat of the Malibu, closing the door behind him. The Malibu then drove south, in the officers’ direction.

According to Officer A, the Subjects could have backed up but instead, they drove toward him/her. Officer A added, “And I was scared that they were going to kill me because he had already shot in our direction and he was shooting at the individuals on the sidewalk. So, I - - was scared that when he was coming towards me, he was going to keep on shooting so I shot at the - - at the passenger that was shooting as they’re going towards me.”

As the Malibu drove south, Officer A fired an additional seven rounds at Subject 1, as he/she was seated in the front passenger compartment of the vehicle. Officer A fired in a northwesterly to westerly direction, and from approximate decreasing distance of 63 feet to 26 feet. According to Officer A was unable to see into the Malibu as it moved towards him/her; however, Officer A could hear gunfire.

According to Officer A, there was a vehicle and steel gate within Subject 1’s background at the time of the OIS. Officer A added that he/she did not observe any citizens within Subject 1’s background.

According to Officer A, he/she did not become aware of the victims’ presence until the conclusion of his/her second volley. Officer A recalled firing three to four shots during his/her second volley. The investigation revealed that Officer A fired seven rounds during his/her second volley. The time that elapsed between Officer A’s first volley and second volley was approximately two seconds.

According to Officer B, he/she believed Subject 1 was firing at him/her and Officer A. In defense of their lives, Officer B fired five rounds at Subject 1, in a northwesterly direction, from an approximate decreasing distance of 63 feet to 27 feet.

According to Officer B, he saw muzzle flash on the passenger side of the Subjects' vehicle, he/she was unsure whether it was coming from within the vehicle or outside. Officer B could not see the Subject firing; however, he/she explained, "If there's a muzzle flash, there's a person behind that muzzle flash."

Officer B recalled the Malibu being stationary when he/she fired his/her rounds. A review of the security video determined that the vehicle appeared to be driving south when he/she fired all five rounds.

According to Officer B, he/she stopped firing when the vehicle drove away, and he/she no longer had a shot. Officer B believed he/she fired three to four rounds during the OIS. The investigation revealed that Officer B fired five rounds.

According to Officer B, at the time of the OIS, he/she was unable to see Subject 1's background due to the fact that it was dark outside, and the lighting conditions were poor. Based on the security video and physical evidence, the investigation determined that Subject 1 did not fire in the officers' direction.

Video evidence indicated that approximately six seconds transpired between the officers' vehicle stopping and the subjects' vehicle driving past the officers.

The Subjects continued driving south after the OIS. Officer B repositioned him/herself to the rear of their police vehicle, facing in a southerly direction, toward the Malibu as it sped away. According to Officer B, his/her intentions were to get the license plate of the Malibu. The Malibu drove through a mid-phase red light and continued south, out of the officers' view.

At approximately 2330:06 hours, as captured on BWV, Officer B held his/her radio in his/her left hand and appeared to be broadcasting. According to Officer B, he/she broadcast a help call; however, it was not captured on Southwest Frequency. Officer B then moved toward the front passenger side of their police vehicle.

A review of Southwest Division's Base Frequency determined that an unknown unit made an incomplete broadcast at approximately 2330:08 hours. Communications Division (CD) was broadcasting simultaneously, and it appeared that Officer B's broadcast was stepped on. Officer B's BWV was in the buffering period and did not capture the audio of his/her broadcast.

Meanwhile, Officer A sat down on the driver's seat of their police vehicle and transitioned his/her pistol into his/her left hand. As he/she did so, Officer A gripped the top of the slide with his/her left hand, with the muzzle pointed toward the driver's side door. Officer A placed the officers' vehicle into park and transitioned his/her pistol back into his/her right hand, out of view of the BWV. Officer A then exited the vehicle, holding his/her pistol and flashlight in his/her left hand and radio in his/her right hand.

Officer B observed Subject 2 reappear on the west sidewalk. According to Officer B, Subject 2 was holding an object, resembling a handgun, in his right hand. A review of the security video determined Subject 2 was holding a revolver in his right hand.

As captured on BWV, while standing near the front passenger side of their police vehicle, Officer B raised his/her pistol with his/her right hand and pointed it in a northwesterly direction toward Subject 2. Officer B activated his/her BWV and jogged in a northwesterly direction across the street. As he/she did so, he/she held his/her radio in his/her left hand and his/her pistol in his/her right hand. Officer B ordered Subject 2 to, "Stay on the ground, get on the ground, get on the ground, get the [expletive] on the ground now."

According to Officer B, he/she utilized curse words while giving commands to Subject 2, because he/she was experiencing stress, and his/her adrenalin was pumping as a result of the OIS.

Officer B did not communicate his/her observations with Officer A and did not advise him/her that Subject 2 was armed with a gun. According to Officer B, he/she did not have time to communicate with his/her partner, because there were too many things happening simultaneously.

Upon exiting the vehicle, Officer A activated his/her BWV, then transitioned his/her radio into his/her left hand and pistol into his/her right hand. According to Officer A, he/she heard Officer B giving commands and observed a Subject running north on the west sidewalk. Officer A ordered the Subject to, "Get on the ground, Get on the ground," and jogged in a northerly direction, toward his/her partner. As he/she did so, Officer A held his/her pistol in his/her right hand and his/her radio and flashlight in his/her left hand.

As captured on security video, Subject 2 looked in the officers' direction, then dropped the revolver onto the ground, west of where the dice game had been. Subject 2 then turned around and ran north on the west sidewalk. According to Officer B, Subject 2 ultimately ran westbound through houses, out of his/her view. According to Officer B, he/she did not see Subject 2 discard the revolver prior to fleeing the scene.

At approximately 2330:21 hours, Officer A broadcast a help call, and advised CD of the officers' location. Officer A then walked south, in the street, toward Victim A's vehicle. He/she illuminated the interior of the vehicle with his/her flashlight and determined there were no occupants inside of the vehicle.

Nearly simultaneously, Officer B broadcast to CD, and advised that a male (Subject 2), wearing a black hoodie and red sweatpants, was running north. As Officer B made the aforementioned broadcast, he/she held his/her radio in his/her left hand, and his/her pistol in his/her right hand, pointed in a northerly direction.

Communications Division repeated the help call. The Radio Telephone Operator (RTO) did not provide the responding units with the officers' cross street, nor did they broadcast Subject 2's description.

Officer B made an additional broadcast and advised CD of their location. Air Unit 3 advised they were responding to the location. Multiple units responded to the help call.

Following the OIS, Officers A and B observed several individuals - Victims B, C, and an unidentified victim wearing an olive-green shirt and glasses - on the west sidewalk, near

the dice game setup. Initially, the officers were unsure if they were victims or potential suspects.

The investigation revealed that two of the unidentified victims fled south following the OIS. They ran south, out of the officers' view, and remain unidentified.

Officer B turned around and pointed his/her pistol in a southerly direction toward Victims B, C, and D. Officer B ordered the victims to get on the ground. The victims did not comply with his/her command; instead, they all remained standing.

According to Officer B, he/she pointed his/her pistol at the victims because the scene was still active, and he/she was unsure if they were victims or suspects. In addition, Officer B was cognizant that the OIS occurred in a known gang area and described the victims' initial demeanor as uncooperative.

Although the victims did not comply with Officer B's command to get on the ground, he/she did not give any additional commands at that time. According to Officer B, there were a lot of things going on. Additionally, Officer B recalled one of the victims reporting that the Subjects fired at them.

Officer B walked south on the west sidewalk, toward where the dice game was setup. Officer B pointed the muzzle of his/her pistol toward the ground, and utilized the flashlight affixed to his/her pistol to illuminate the sidewalk. Officer B observed a revolver lying in the grass, just west of the sidewalk.

Officer B did not advise Officer A about the presence of the revolver at this time, because he/she did not want to alert the victims of the revolver's location.

Officer A walked south in the street, toward the aforementioned victims. He/she pointed his/her pistol in the direction of Victims B and D and ordered them to get against the wall. They did not comply with his/her commands; instead, they remained standing in their current positions with their hands raised in the air. Victims B and D both informed Officer A that the Subjects shot at them.

According to Officer A, he/she pointed his/her pistol at the victims because he/she initially believed they could be suspects.

Officer A did not give additional commands to the victims because they appeared to be somewhat cooperative and were not attempting to flee the scene.

At approximately 2330:52 hours, Victim D walked north on the west sidewalk in Officer B's direction. He bent down and picked up an unknown amount of currency from the sidewalk. Officer B pointed toward the south and directed Victim D to stay over there. Victim D walked a few steps south but remained in the area of the dice game setup and revolver.

Officer B then turned toward the north, and using his/her right hand, pointed his/her pistol in a northerly direction. As he/she did so, as captured on BWV, Officer B's back appeared to be exposed to Victims B, C, and D, who were still standing in close



proximity to the revolver. According to Officer B, although his/her back was turned toward the revolver, his/her head was swiveling, and he/she was able to monitor the revolver and the victims.

Officers A and B observed Victim A to the north of their location. According to Officer B, Victim A was yelling and appeared to stumble in the street. Based on his/her observations, Officer B believed Victim A may have sustained a gunshot wound. Officer B directed Victim A to come to his/her location.

Officer B then turned in a southerly direction, and yelled to the victims, "Hey, don't grab the gun, stay in there." Officer B then broadcast to CD, advising that they had an article (revolver) in custody, and requested a Rescue Ambulance (RA) for Victim A. As he/she made the aforementioned broadcast, Officer B turned and walked away from the revolver, in a northerly direction. According to Officer B, as he/she did so, he/she was continuously looking back and forth and was able to monitor the revolver.

According to Officer B, the victims never attempted to pick up the revolver; however, they would get close to it, then walk away. The investigation determined that Officer B never took custody of the revolver. The revolver remained in place until it was later recovered by criminalists. Officer A acknowledged hearing Officer B's broadcast and opined that there was a firearm at scene.

Officer A believed Victim A was a potential suspect and was concerned that he may try to flee the scene. Officer A holstered his/her pistol, entered the police vehicle and drove north approximately 25 feet. According to Officer A, Victim A began walking in his/her direction; therefore, he/she decided to stop the vehicle.

According to Officer A, as he/she repositioned the vehicle, he/she was able to see Officer B, who was standing near the west curb, and was close enough to render aid if necessary.

Officer A estimated that he/she parked the police vehicle approximately 15 feet east of Officer B's location.

Officer A parked in the northbound lane of the roadway, east of the dice game setup. Officer A then exited the vehicle, walked toward the west sidewalk, and made contact with the victims. As Officer A approached, Victim D appeared to be examining his/her right arm. Officer A asked Victim D if he was okay and verified that he was not injured. Victim D pointed in a northerly direction, toward Victim A, and stated, "I think he hit down there." Officer A replied, "Okay," and remained in the same area.

Although Officer A believed Victim A was a potential suspect, he/she decided to initiate contact with the victims on the west curb first, because they were closer to where he/she parked.

At approximately 2331:47 hours, Witness A called 911 and reported that a vehicle collided with a pole at a nearby intersection. She described the vehicle as a black Chevrolet, gave the registration plate number, and advised CD that there was a bullet

hole on the rear portion of the involved vehicle. Witness A added that she heard the sound of fireworks just prior to the collision.

At approximately 2331:50 hours, Air 3 arrived over the scene. Shortly thereafter, Officer A transitioned his/her radio into his/her left hand and unholstered his/her pistol. According to Officer A, he/she unholstered his/her pistol again because the scene was still active, and they were still waiting for additional resources to arrive.

Air 3 requested that Officers A and B to utilize their flashlights, to assist him/her with identifying their location. Upon Air 3's request, Officers A and B both activated their flashlights. Air 3 then began setting up a perimeter. Officer A broadcast a description of the malibu and advised that there were two male occupants, and gunshots to the windshield.

Meanwhile, Officers C and D responded to the area. They located the Malibu, which had been involved in a traffic collision with a pole.

When Officers C and D located the Malibu, the trunk and vehicle doors were closed.

As captured on BWV, Officer C ordered any occupants inside of the Malibu to exit with their hands up; however, he/she received no response. It was ultimately determined that the Malibu was unoccupied

While waiting for additional resources to arrive, Officer B walked to the west sidewalk, and asked Victims B and C if they were okay. Victim C replied, "Yeah." Victim D then walked north on the west sidewalk, past Officer B. Officer B asked Victim D if he was okay. As captured on BWV, Victim D appeared to be examining his right arm, and said something unintelligible. Victim D then stepped into the street and continued walking in a northerly direction. Officer B informed Victim D that an ambulance was en route for Victim A.

According to Officers A and B, Victim D never reported that he was injured.

Officer B illuminated the revolver with his/her flashlight and asked Victims B and C, "Hey, who was the guy with the gun?" Victims B and C both began walking in a northerly direction toward Officer B. Victim B informed Officer B that they (the victims) were shooting dice, and reiterated that the Subjects were shooting at them. As Officer B was speaking with the victims, Officer A joined them on the west sidewalk. Officer B then directed Officer A to the revolver.

As captured on BWV, Officer A illuminated the revolver with his/her flashlight and asked, "Hey, whose is this?" Victims B and C walked north, stood in close proximity to the revolver, and appeared to be looking down at it. Officer B pointed toward the north and replied, "That was the guy with the - - with that red hooded sweatshirt." Officer A pointed his/her flashlight toward Victim A and stated, "He's over here. Let me go get him. Let me go get him." As Officer A responded, Officer B simultaneously stated, "And that black hooded sweatshirt. He has a gunshot." Officer A then jogged north, in the street, toward Victim A.

As captured on BWV, Victims B and C appeared to get within a few feet of the revolver.

According to Officer B, he/she never observed the individual wearing the red sweatshirt (Victim A) armed with a firearm. Officer B attributed the above statement made to Officer A as confusion.

As Officer A made his/her way north, Victim A was walking south in his/her direction. Victim D approached Victim A's right side, and Officer A approached his left side. Officer A placed his/her right arm around the back of Victim D's neck, while Officer A placed his/her right hand under Victim A's left arm/armpit area. Together, Officer A and Victim D assisted Victim A south, toward the OIS scene.

According to Officer A, he/she didn't handcuff Victim A immediately because, "...when I was bringing him back, well, I had like checked his waistband area and I didn't see anything." Officer A added that he/she was multi-tasking and it didn't occur to him/her to handcuff Victim A right away.

Officer B estimated that Officer A was approximately five to six properties north of his/her location, when he/she met with Victim A. Officers A and B both believed they were close enough to render aid to one another if necessary.

According to Officer A, he/she was approximately 30-40 feet north of Officer B when he/she made contact with Victim A. An analysis of the BWV determined that the actual distance was approximately 115 feet.

As Officer A was assisting Victim A, Officer B broadcast to CD, advising that there was a victim down (Victim A), with a gunshot wound to his leg. Officer A assisted Victim A into a seated position, on the west curb, just north of Officer A's vehicle. Officers A and B illuminated Victim A with their flashlights and asked where he was shot. Victim A replied that he was good.

The investigation determined that Victim A did not sustain a gunshot wound. He subsequently informed officers that he injured his hip while fleeing from the Subjects.

At approximately 2334:23 hours, Officers E and F arrived at scene. They initially parked at a nearby intersection and exited the vehicle. Shortly thereafter, Air 3 requested that one unit respond to the OIS scene, and Officer E advised CD they would respond. Officers G and H also responded to the OIS scene.

Officers E and F were the first officers to arrive at the OIS scene. Upon their arrival, Officer B informed them that the incident began as a shooting in progress. Officer B provided a description of Subject 2 and his last known location. Officer B pointed toward the revolver and stated, "He [Subject 2] was the one with the revolver." Officer E broadcast to CD, and provided a description of Subject 2, as well as his last known direction of travel.

At approximately 2336:05 hours, Officers G and H arrived at scene. Upon their arrival, Officer G met with Officer B and inquired about Subject 2's last known direction of travel, then requested that Air 3 increase the size of the perimeter.

As captured on BWV, Victim D walked north on the west sidewalk, past the revolver. Officer F ordered Victim D to back up. Officers H approached Victim D, advised him that the area was considered a crime scene, and directed him to go south. Victim D walked backward, with both hands raised, as Officer H followed him southbound on the sidewalk. Officer H escorted Victim D to the east sidewalk. As he/she did so, Officer F began guarding the revolver.

According to Officer A, he/she believed Victim A was a potential suspect, because he/she initially fled from the scene. Officer A decided to handcuff Victim A. Officer A assisted Victim A to a standing position and completed the handcuffing process. Officer A then assisted Victim A to a seated position on the west curb. During that process, Victim A complained of pain to his hip area.

Officer E approached Officer A and requested additional information about Subject 2. Officer A informed Officer E that Subject 2 fled approximately three to four minutes prior to his/her inquiry. In addition, Officer A described the Subjects' vehicle as silver Chevrolet sedan, and informed Officer E that the passenger was shooting. Officer A stated to Officer E, "I thought he was shooting at me."

Officers H recovered a flashlight from the street, south of Officers A and B's vehicle. Officers H walked north, and was met by Officer B. Officer B advised Officers H that the flashlight belonged to him/her. Officers H relinquished the flashlight to Officer B.

At approximately 2338 hours, Sergeant A arrived at scene of the OIS. He/she identified the involved officers and ensured that Officers A and B were separated.

Officer A relinquished custody of Victim A to Officer E. Officer E asked Victim A if he was injured and required an ambulance. Victim A advised he injured his hip while fleeing from the Subjects; however, he declined an ambulance multiple times.

At approximately 2338:54 hours, Officer H met with Victim B, in the street. As captured on BWV, Victim B was bleeding from his left wrist area. Officers G approached shortly thereafter, and requested an RA for Victim B. Officer G broadcast to CD, requesting that the RA respond and informed Sergeant A that Victim B had sustained a gunshot wound. Sergeant A ensured that an RA had been requested for Victim B.

The investigation determined that Victim B sustained an abrasion to his left wrist. Although the cause of the abrasion was unsubstantiated, Victim B advised investigators that he believed the injury was ballistic-related.

At approximately 2342:35 hours, Los Angeles Fire Department (LAFD) arrived and provided medical treatment to Victim B.

At approximately 2343 hours, Witness B was parked outside of a nearby business premise. According to Witness B, as he sat in his vehicle, a shirtless individual (later identified as Subject 3) approached him, claimed to be the victim of an assault, and asked for a ride out of the area. Witness B noted that Subject 3 had a hole near the

center of his chest that was bleeding. Subject 3 was carrying a white shirt and was using it to clean blood from his chest and hands.

Witness B refused Subject 3's request. After the refusal, Witness B observed Subject 3 ask other individuals within the parking lot for a ride. He then observed Subject 3 enter a business premise and begin speaking with patrons. Witness B heard police activity in the area and opined that Subject 3 may be involved. Witness B called 911 and reported the encounter with Subject 3.

Officers I and J assumed a perimeter position at a nearby intersection. As they did so, they located a broken gold chain in the street. Officer I broadcast his/her finding and was contacted by Sergeant B, who directed him/her to photograph and recover the necklace, which he/she did.

During a subsequent search of the Malibu, two gold chain fragments were recovered from the passenger compartment of the vehicle. It was later determined that the broken necklace and the fragments tested positive for gunshot residue.

Meanwhile, Subject 3 asked Witnesses C and D for a ride and they agreed. Witnesses C and D and Subject 3 then exited the business together and entered Witness D's vehicle. Witness D was the driver, Witness C was the front passenger, and Subject 3 was the rear passenger. According to Witness D, Subject 3 was looking around and started acting suspicious.

According to Witnesses C and D, Subject 3 began telling them where to turn. As they drove through the area, they observed police activity. According to Witness C, Subject 3 began leaning back in the seat, and asked Witness D to place the vehicle in reverse. Based on Subject 3's demeanor, Witnesses C and D opined that the police may be searching for Subject 3.

According to Witnesses C and D, as they approached officers, Subject 3 laid on the rear floorboard, and appeared to be attempting to hide.

When asked if he tried to alert the police about Subject 3's presence, Witness C stated, "No, because we didn't know what to do. And we just assumed they'd find him back there just hiding so we just decided to let them."

Officers K and L had assumed a position on the perimeter. They were stopping and visually inspecting the interior of vehicles, in search of the outstanding suspects.

According to Officer K, he/she heard CD broadcast the radio call at the business premise, as well as the Subject's descriptors. Officer K approached the driver's side of Witness D's vehicle and illuminated the interior of the vehicle with his/her flashlight. As he/she did so, he/she made eye contact with Subject 3, who was lying on the rear passenger floorboard. According to Officer K, "I immediately identified the very obvious clothing description that was provided over the air on the tac channel of the red sleeves."

Investigators were unable to locate any broadcasts on the police radio indicating that Subject 3 was wearing a shirt with red sleeves.

Officer K was aware of the previous broadcasts indicating that the Subject may be armed. According to Officer K, "And so because of that, um, the potential of things reasonably escalating if he did have a weapon of, you know, and the threat of death or serious bodily injury, I drew and exhibited the weapon."

While holding his/her flashlight in his/her left hand, Officer K unholstered his/her pistol, and held it in his/her right hand, with the muzzle pointed in a northerly direction toward Subject 3. According to Officer K, he/she was able to see Subject 3's hands from his/her position, and he did not appear to be holding a weapon.

According to Officer L, he/she was providing directions to the driver of the previous vehicle they inspected, when he/she heard Officer K yell, "Partner!" Officer L walked toward Officer K, and as he/she did so, raised his/her flashlight with his/her left hand, and illuminated the interior of Witness D's vehicle. He/she noted that Officer K's pistol was drawn and opined that there was a suspect inside of the vehicle.

According to Officer L, he/she was also cognizant that there were reports of an armed suspect in close proximity to their location. As he/she approached the vehicle, Officer L unholstered his/her pistol, and held it in his/her right hand with the muzzle pointed in a northeasterly direction, toward the vehicle. Officer L positioned him/herself beside the rear driver's side door, then pointed his/her pistol in a northerly direction, toward Subject 3.

As Officer L communicated with Witness D, Witness C, and Subject 3, Officer K handled communications. Officer K broadcast to CD, "[W]e're gonna be Code Six at [location]. We're gonna have a suspect inside the rear of a vehicle here." Officer K further, added a description of the vehicle and the Subject's clothing.

According to Officers K and L, they were unsure if Witnesses C and D were potential hostages or suspects. As captured on BWV, Officer L ordered Witness D to turn the vehicle off and throw her keys out of the window. According to Officer L, Witness D did not immediately comply with his/her command. Officer L then stated, "Throw them on the [expletive] ground right now." Witness D complied, by throwing the keys out of the driver's side window. Officer L stated, "Anybody moves you will get shot. Plain and [expletive] simple."

When asked why he/she used expletives when addressing Witnesses C and D and Subject 3, Officer L explained, "It was essentially to prove my point that it's not a game; that this is a very serious situation and also to kind of snap their minds right in a sense and I got immediate compliance after I did."

The Air Unit requested any additional units, not assigned to a position on the perimeter, to respond to Officers K and L's location. Officers N, O, P, Q, R, and S responded.

As they waited for additional resources to arrive, Officer K continued to verbalize with Witnesses C and D, and Subject 3. As captured on BWV, Officer K ordered Subject 3

not to move. Officer K then advised Witnesses C and D and Subject 3 that the officers did not want to shoot anyone and wanted them to be aware of the severity of the call. Officer K then stated, "If you are a victim, we are going to determine that, but we need you to cooperate. Do not reach into your pockets whatsoever. Do you understand me?" Officer K then advised Witnesses C and D and Subject 3, that if Officer K saw their hands drop, he/she would consider it a threat.

At approximately 2354:54 hours, Officers M and N arrived at scene. Upon their arrival, both officers unholstered their pistols. Officer K advised Officers M and N that they would have Witnesses C and D exit the vehicle first, while Officer L covered Subject 3. Using his/her left hand, Officer K opened the driver's side door of the vehicle and ordered Witness D to exit. Witness D complied with Officer K's command.

Officers O and P arrived at scene as Officer K was opening Witness D's door. They both unholstered their pistols upon exiting the police vehicle. Shortly thereafter, Officers Q, R, and S arrived at scene. Officer Q retrieved a shield from the rear seat of his/her police vehicle.

Officer N escorted Witness D to the south sidewalk and handcuffed her. Officer K then ordered Witness C to exit the vehicle and reminded him not to reach into his pockets. As Witness C exited, Officer K directed him to walk toward the front of the vehicle, and he complied with his/her commands. Officer R then escorted Witness C to the south sidewalk and handcuffed him.

At approximately 2356:01 hours, as captured on his/her BWV, Officer K gave commands to Subject 3, stating, "Remember what I said. Do not drop your hands to the bottom whatsoever. We will consider it a threat." Officer Q approached the rear passenger door of the vehicle and advised the officers that he/she had a shield. Officer Q held the shield in his/her left hand, and his/her pistol with his/her right hand.

Officer L was cognizant that Officer Q had arrived with the shield. Officer L looked over his/her shoulder, and observed officers standing in an arrest-team formation. He/she redeployed south, toward the sidewalk, and holstered his/her pistol.

As captured on BWV, Officer K opened the rear driver's side door with his/her left hand, while holding his/her pistol in his/her right hand, with the muzzle pointed toward the ground. As he/she did so, Officer Q positioned him/herself just east of the open door. Officer Q held the shield in his/her left hand, and his/her pistol in his/her right hand, with the muzzle pointed toward Subject 3.

As captured on BWV, Subject 3 was lying on his back, on the rear seat, with both hands raised in the air. Officer K ordered Subject 3 to, "Slide your way out," and told him, "Do not reach down." Officer K then transitioned his/her pistol into a two-handed, low-ready shooting position.

Officer K directed Subject 3 to roll onto his stomach and crawl out of the vehicle. Subject 3 complied with his/her commands. Subject 3 placed both hands onto the asphalt and began crawling out of the vehicle.

As Officer K was giving commands, the officers at scene discussed roles. Officer S assumed the role of TASER officer and Officer O agreed to be the handcuffing officer. As captured on BWV, Officer L informed the officers that Subject 3 was bloody, in case they wanted to don protective gloves.

Officer K ordered Subject 3 to lie flat on the ground, place his arms out to his sides and spread his legs. Subject 3 complied. Officer O approached Subject 3's right side and using his/her left hand, grabbed Subject 3's right forearm. As he/she did so, Officer O placed his/her left knee on Subject 3's lower back area. Officer O then grabbed Subject 3's right wrist, using his/her right hand, and lifted Subject 3's arm off of the ground. Officer O then placed his/her right knee on Subject 3's upper back, straddling Subject 3's right arm. Officer O retrieved his/her handcuffs, and cuffed Subject 3's right wrist.

Using his/her right hand, Officer O grabbed Subject 3's left forearm, pulled his left arm behind his back, and cuffed Subject 3's left wrist. Officer O then removed both of his/her knees from Subject 3's back. Officer O conducted a pat down search of Subject 3's front waistband area and pockets and assisted him to a standing position. Officers O and P escorted Subject 3 to a nearby police vehicle, at which time Officer O began filling out a Field Interview (FI) Card.

Although Officer L stated that Subject 3 was bloody, Officer O did not don protective gloves prior to approaching Subject 3 and taking him into custody.

Subject 3 initially provided Officer O with a false name; however, the investigation subsequently determined his true identity.

Officer K checked the trunk of Witness D's vehicle and verified that there were no additional occupants. Officers K and L donned protective gloves and searched the interior of Witness D's vehicle. No contraband was recovered from Witness D's vehicle.

While Officer O was completing the FI Card on Subject 3, Officer Q approached, illuminated Subject 3 with his/her flashlight, lifted up his shirt, and began visually examining him for injuries. Officer Q asked Subject 3 if he was hit or in pain. Subject 3 replied, "No, no, no pain."

At approximately 0000:56 hours, Officer K approached Subject 3 and asked if he had been shot. Subject 3 replied, "No." Officers O and Q illuminated Subject 3 with their flashlights. Officer Q pulled down the back collar of Subject 3's shirt at which time Subject 3 said, "I'm good man, I'm good."

As the officers were speaking with Subject 3 and checking him for injuries, Subject 3 tucked his chin down toward his chest. Officer Q ordered Subject 3 to look up, and initially he appeared reluctant to do so. After asking him three times, Subject 3 raised his head. Officer Q then pulled Subject 3's front shirt collar forward and visually examined his chest area. As captured on BWV, Officer Q requested that Officer P also examine Subject 3 to determine if Subject 3 had a hole in his chest.

Officers O and P also observed blood on the front of Subject 3's shirt. In response to Officer Q's statement, they visually examined Subject 3's chest area. Officer P observed



a small wound on Subject 3's chest. According to Officer P, "It looked like - - like a piece of glass had struck him, or a piece of - - like a pebble or something."

As captured on BWV, Officer P inquired if the injury was from a fragment or something, and Subject 3 replied, "Nah." Subject 3 then informed the officers that he was jumped.

Officer O observed a circular abrasion to Subject 3's chest area, but said the injury appeared to be minor. Officer O did not feel an RA was necessary for Subject 3.

Although multiple officers were aware that Subject 3 appeared to be bleeding, had multiple holes throughout his shirt, and an injury to his chest area, an RA was never requested for Subject 3. According to Officer P, he/she would have requested an RA for Subject 3, had he/she claimed any injury.

Officers A and B both independently participated in Field Show-ups involving Subject 3; however, neither was able to identify Subject 3 as being involved in the incident.

Metropolitan Division K9 personnel responded to the scene and searched the surrounding areas for the outstanding Subjects with negative results.

At approximately 0029:51 hours, Los Angeles Fire Department (LAFD), arrived at scene and rendered aid to Victim A. Victim A did not require transportation to a medical facility.

At approximately 0135:20 hours, Officers G and H transported Subject 3 to Southwest Community Police Station.

Witnesses C, D and Victim A were also transported to Southwest Community Police Station for further investigation. They were photographed, interviewed, and released.

### **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	N/A	N/A
Officer B	Yes	Yes	Yes	N/A	N/A
Officer K	No	Yes	No	Yes	Yes
Officer L	No	Yes	No	Yes	Yes
Officer Q	No	Yes	No	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, K, and L's, tactics to warrant a Tactical Debrief. The BOPC found Officer Q's tactics to warrant an Administrative Disapproval.

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

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

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

The BOPC found Officers A and B'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. The Los Angeles Police Department also recognizes 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. 23, 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 suspect 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.

**Verbal Warnings:** Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

**Proportionality:** Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

**Fair and Unbiased Policing:** Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

**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.

**Factors Used to Determine Objective Reasonableness:** Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

**Drawing or Exhibiting Firearms:** Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

**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.

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. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

**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*.

**Rendering Aid:** After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

**Warning Shots:** It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

**Shooting at or From Moving Vehicles:** It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

**Note:** It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

**Requirement to Report Potential Excessive Force:** An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer

under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

**Requirement to Intercede When Excessive Force is Observed:** An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

## Definitions

**Deadly Force:** Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

**Feasible:** Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Imminent:** Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

**Necessary:** In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

**Objectively Reasonable:** The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “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 test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

**Serious Bodily Injury:** Pursuant to California Penal Code Section 243(f)(4) Serious

Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement

**Totality of the Circumstances:** All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

**Vulnerable Population:** Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

**Warning Shots:** The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

## 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*

Tactical de-escalation does not require that an officer compromise his/her or his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – According to Officer A, he/she and Officer B frequently discussed their tactical plan, such as assigning contact and cover roles, and discussed previous tactical incidents. Officers A and B had worked together for approximately two deployment periods in Southwest Area. Leading up to the OIS, Officers A and B were not afforded time to create a plan due to Subject 1's actions and the rapidly unfolding incident.

According to Officer K, he/she and Officer L discussed their tactical plan prior to arriving at radio calls and would also discuss roll call training concepts during their shifts. Officers K and L had worked together for approximately nine years in Southwest Area. Officers K and L arrived at the perimeter for the OIS help call and began to check vehicles entering and exiting the perimeter for suspects involved in the incident. Upon observing Subject 3 in the backseat of Witness D's vehicle, Officer K began to devise a plan with Officers L and Q as well as other responding officers. Officer K's plan was to take Subject 3 into custody after ensuring Witnesses C and D had exited the vehicle. While creating a tactical plan, Officer K had assigned lethal and less-lethal force options, and well as contact and cover roles.

**Assessment** – Officers A and B were following a Tahoe when they heard gunshots ahead of them. Officer A observed Subject 1 firing a handgun in a westerly direction then turn in a southerly direction and fire the handgun at Officers A and B. Officer B observed Subject 1 firing a handgun and believed Subject 1 posed an imminent threat to the officers. Officers A and B assessed prior to firing their service pistols and during their respective volleys. Additionally, after the OIS occurred, Officers A and B continued to assess the scene and observed possible shooting victims on the west sidewalk. Officer B was able to assess the Malibu as it sped southbound and provided a description of it to CD. Officers K and L responded to the perimeter for the OIS help call. While on the perimeter, Officers K and L were continually assessing each vehicle that entered or exited the perimeter. This continuous assessment allowed Officers K and L to locate and apprehend Subject 3 as he tried to conceal himself in a vehicle.

**Time** – Officers A and B utilized time during the OIS to take positions of cover behind their ballistic panels of their police vehicle. Officers A and B utilized these positions of cover from which to fire their service pistols at Subject 1. After the OIS, Officers A and B attempted to maintain a visual on Subject 2 while contacting possible victims and requesting additional resources. After locating Subject 3, Officers K and L contained him in Witness D's vehicle until additional officers arrived and formed a tactical plan to safely apprehend Subject 3.

**Redeployment and/or Containment** – When Officer A observed Subject 1 firing a handgun, Officer A considered redeploying southbound. However, due to the rapidly unfolding incident and the Malibu facing southbound, Officer A believed Subject 3, when fleeing, would drive southbound toward Officers A and B. Therefore, Officer A believed redeploying would not have been beneficial for him/her and Officer B. After the OIS occurred, Officers A and B observed Subject 2 return towards the location of the dice game on the west sidewalk. Subject 2 turned and ran northbound away from Officers A and B. Officer B broadcast his/her observations and requested a perimeter to contain Subject 2.

Officers K and L came upon Subject 3 in the backseat of Witness D's vehicle. After formulating a tactical plan, Officers K and L redeployed partially behind Officer Q's ballistic shield.



**Other Resources** – After the OIS occurred, Officer B broadcast an “officer needs help” call over Southwest Area base frequency, which led to the arrival of additional officers, supervisors, and an Air Unit. Officers K and L responded to the help call and took a position on the perimeter. Locating Subject 3 in Witness D’s vehicle, Officer K alerted Officer L of his/her findings and requested his/her assistance. Officer L then requested additional resources to detain Witnesses C and D and apprehend Subject 3. Officer Q responded to the request and deployed a ballistic shield for cover.

**Lines of Communication** – After the OIS occurred, Officer B communicated over the police radio, indicating shots had been fired and requesting help. While only part of Officer B’s initial broadcast was captured by CD, Officer B continued to maintain his/her line of communication with CD and made additional broadcasts giving his/her location, a suspect description, and a request for resources. Locating Subject 3, Officer K alerted Officer Q to his/her discovery. Standing outside the vehicle, Officers K and Q established lines of communication with Witnesses C and D and Subject 3. When additional units arrived, Officers K and Q advised the officers of their discovery. As the situation unfolded, Officer K maintained a line of communication with CD, providing updates as they pertained to the apprehension of Subject 3.

The BOPC was critical of Officer L’s use of profanity directed at Witnesses C and D. Officer L articulated his/her belief that Witnesses C and D were not following the officers’ directions because Witnesses C and D believed the incident was humorous. Officer L utilized profanity to relay the gravity of the situation and obtain Witnesses C and D’s compliance, allowing officers to remove them from the vehicle so Subject 3 could be safely apprehended. The BOPC considered Officers K and L’s concern for Witnesses C and D ‘s safety as the officers believed Witnesses C and D might have been hostages.

The BOPC was also critical of Officer B’s failure to notify Officer A of the presence of Subject 2’s handgun near the location of the dice game on the west sidewalk. The BOPC noted Officer B’s statement that he/she did not have adequate time to communicate with Officer A regarding the handgun. The BOPC noted that while the scene was chaotic and rapidly unfolding, advising Officer A about the presence of a handgun should have been a priority for Officer B, especially considering the handgun’s proximity to the victims on the west sidewalk near the dice game.

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

#### **1. Code Six**

Officers A and B were conducting patrol. Officers A and B observed a Chevrolet Tahoe and began to follow the vehicle. Officers A and B observed the Tahoe continue northbound. As Officer A drove, Officer B attempted to utilize Department resources to check for wants/warrants on the Tahoe’s license plate. As this occurred, a passenger from the Malibu exited and appeared to fire a handgun towards the officers’ direction and towards the west sidewalk. Officers

A and B stated they did not have time to place themselves Code Six because they were being fired upon. Officer B stated that he/she believed the prudent course of action was to defend him/herself and his/her partner from the deadly threat first, then broadcast their Code Six location.

The BOPC noted Officers A and B were following a Chevrolet Tahoe to further investigate the vehicle. The officers were not aware that Subject 3 and his passengers were preparing to shoot at Victim A and the males on the west sidewalk. Additionally, the BOPC noted Officers A and B had no intention of engaging the suspects prior to the OIS occurring. The BOPC noted that once the suspects began to fire handguns, Officers A and B described being in fear for their lives. The BOPC also noted that Officer B attempted to broadcast immediately after the OIS. According to the investigation, it appeared that CD had broadcast over Officer B.

The BOPC determined that Officers A and B, due to the suspects' actions, did not have time to broadcast their Code Six location. Officers A and B chose to protect their lives from the deadly threat presented by the suspects. Additionally, Officer B attempted to broadcast immediately after the OIS.

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

## **2. Occupying Moving Vehicle with Service Pistol Drawn**

As Officer A drove northbound, he/she was approximately 41 feet south of Subject 3 when he/she stopped his/her police vehicle due to Subject 1 exiting the Malibu and firing in a westerly direction. Officer A opened his/her door with his/her left hand and drew his/her service pistol with his/her right hand while seated in his/her police vehicle; Officer A stated he/she did not have time to place the police vehicle's transmission into park. Officer A maintained his/her right foot on the brake pedal and placed his/her left foot onto the ground as he/she stood up and partially exited the police vehicle. After Subject 3 fled south, Officer A transitioned his/her service pistol to his/her left hand and placed his/her police vehicle's transmission into park with his/her right hand.

The BOPC noted that this incident occurred rapidly and unexpectedly. The BOPC noted the manner in which Officer A drew his/her service pistol from within his/her police vehicle as he/she was preparing to exit his/her police vehicle. Officer A's police vehicle's transmission was not in park at the time he/she stepped out with his/her left foot. Officer A stepped out of his/her police vehicle while maintaining his/her right foot on the brake pedal of his/her police vehicle to prevent the vehicle from rolling forward. The BOPC recognized Officer A's desire to defend him/herself against the imminent deadly threat posed by Subject 1. The BOPC determined that stopping this threat was the greater priority and noted Officer A had to presence of mind to stop the deadly threat posed by Subject 1 while maintaining control of his/her police vehicle.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were a not a deviation from approved Department tactical training.

### **3. Separation/Approaching Possible Armed Suspect**

Officer B observed Subject 2 return to the west sidewalk holding a handgun in his/her right hand. Officer B observed Subject 2 run northbound along the west sidewalk. Officer B ran in Subject 2's direction but stopped when he/she lost sight of Subject 2 when Subject 2 ran westbound "through the house." Officer B did not know if Subject 2 had discarded his handgun. Officer A began to follow Officer B but turned and walked back towards the victims who were standing next to the area of the dice game on the west sidewalk. Upon seeing Victim A walking south, Officer A jogged towards Victim A and assisted him with walking towards the location of the OIS. Officer A estimated that he/she was approximately 30-40 feet away from Officer B. According to the investigation, Officer A was approximately 115 feet away from Officer B.

After the OIS, Officers A and B each approached the victims who were standing on the west sidewalk. Officers A and B both stated that they were unsure if the individuals they were approaching were victims or suspects. However, Officers A and B continued to approach them multiple times, without the benefit of cover, unaware if they were armed.

The BOPC noted that Officers A and B were attempting to handle a dynamic incident by themselves. Officers A and B believed they had been fired upon by the suspects and, after returning fire towards the fleeing suspects, Officers A and B began to approach the area of the victims near the dice game on the west sidewalk. While doing so, Officer B observed Subject 2 return to the area of the dice game, holding what appeared to be a handgun. Officer B began to pursue Subject 2 on foot. The BOPC noted that Officer A began to follow Officer B. Both Officers terminated the short foot pursuit and returned to the victims. The BOPC noted the foot pursuit of Subject 2 was brief, and the officers stopped their actions when they began to separate.

The BOPC noted Officer A's actions when he/she approached Victim A to assist him in walking back towards the scene of the OIS, and noted Officers A and B's statements regarding the potential for Victim A to have been armed at the time. However, the BOPC noted that Officer A's intention when approaching Victim A was to provide him medical aid. The BOPC determined that Officers A and B utilized their best judgement and weighed their options; ultimately determining a reverence for human life superseded their own personal safety. While the BOPC determined this was not a deviation, they determined there was area for improvement for Officers A and B.

Additionally, the BOPC noted the multiple times during the incident in which both Officers A and B approached the victims near the dice game. The BOPC noted Officers A and B's statements regarding the victims and whether they were possibly armed. The BOPC discussed the responsibilities placed on the officers during this incident and their limited resources at the time. Officers A and B were

the only two officers at scene as they attempted to address multiple deadly threats and the possible return of Subject 2 to the scene. However, the BOPC noted that Officers A and B remained aware of their surroundings and alert to the movements of the victims.

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

#### **4. Utilization of Cover**

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

When Officer K approached Witness D's vehicle, he/she did not know Subject 3 was hiding in the rear passenger compartment. Discovering Subject 3, Officer K alerted his/her partner. Officer K chose to stand next to Witness D's vehicle and verbalize with Subject 3 without seeking the benefit of cover. Officer K remained in the open as additional officers formed an arrest team. Officer K then opened the rear driver's side door, allowing Subject 3 to exit, while Officer Q approached with a ballistic shield to provide limited cover.

The BOPC discussed Officer K's articulation for maintaining his/her position near Witness D's vehicle as opposed to seeking cover, specifically that his/her position allowed him/her to maintain a visual of Subject 3's hands during the incident. Additionally, the BOPC noted that Officer Q deployed the ballistic shield which he/she utilized as portable cover. The BOPC also noted that Officer K believed it was crucial to quickly remove Witnesses C and D from the vehicle as they may have been hostages. The BOPC noted that before ordering Subject 3 out of the vehicle, Officer K formed an arrest team, consisting of officers assigned to less-lethal force options, lethal, and contact designations. The BOPC believed Officer K managed the situation adequately without the presence of supervision. The BOPC noted Officer K's decision to maintain his/her position next to the vehicle instead of seeking cover was done with reverence for Witness C and D's lives. The BOPC determined that Officer K weighed his/her options carefully and given the circumstances acted appropriately.

Based on the totality of the circumstances, the BOPC determined that Officer K's actions were not a deviation from approved Department tactical training.

#### **5. Basic Firearm Safety Rules (Substantial Deviation Without Justification – Officer Q)**

During the removal of Subject 3 from the vehicle by Officers K and Q, Officer Q believed Subject 3 was the "potential suspect that had discharged the firearm at officers." Officer Q further explained that he/she knew shots had been fired at the OIS location. Officer Q believed he/she needed to protect him/herself from

Subject 3 since he/she was unsure if Subject 3 was still armed with a firearm and believed the situation could have escalated to one involving the use of deadly force. Officer Q, to maintain a “tactical advantage”, drew his/her service pistol. Officer Q drew his/her service pistol to a low-ready position prior to Officer K opening the vehicle door for Subject 3 to exit. Officer Q brought his/her service pistol up, aimed at Subject 3’s “center mass,” and placed his/her finger on the trigger in fear that Subject 3 may begin “firing at officers.” Officer Q stated that he/she remained “on target” from the time Officer K began giving verbal commands to Subject 3 until the time Subject 3 removed him/herself from the vehicle and it was made evident that Subject 3 was being compliant. At that point, Officer Q lowered his/her service pistol and, shortly after, holstered his/her service pistol.

The BOPC noted Officer Q’s belief that Subject 3 could have still been armed. The BOPC also considered Officer Q’s knowledge of Subject 3 being a potential suspect who fired at Officers A and B. However, the BOPC was critical of Officer Q’s decision to place his/her finger on the trigger of his/her service pistol and point his/her firearm at Subject 3, absent circumstances indicating Subject 3 was an imminent threat and Officer Q intending to shoot. The potential for future harm does not warrant an officer to treat the interaction as an imminent, deadly threat. The movement of the trigger finger to the trigger was concerning as it may have heightened the possibility of an unintentional discharge. Therefore, Officer Q’s action of placing his/her finger on the trigger of his/her service pistol and the pointing of his/her service pistol at Subject 3 during the time of his compliance was not reasonable.

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

- The BOPC also considered the following:
  - **Holding Service Pistol in One Hand and Equipment in Other** – As Officer A drove his/her police vehicle northbound while following the Tahoe, he/she held his/her flashlight in his/her left hand. Office A was still holding his/her flashlight when Subject 1 exited Subject 3’s Malibu and began firing a handgun. Fearing for his/her life, Officer A drew his/her service pistol and acquired a two-handed grip, discharging his/her service pistol while holding his/her flashlight in his/her left hand. Immediately following the OIS, Officer A transitioned his/her service pistol from his/her right hand to his/her left hand as he/she placed the police vehicle’s transmission in park; Officer A transitioned his/her service pistol by holding the slide of the service pistol with his/her left hand. With the transmission in park, Officer A transitioned his/her service pistol back to his/her right hand and exited his/her police vehicle. At some point, out from the view of Officer A’s BWV, Officer A took hold of his/her service pistol with his/her left hand. Officer A held his/her service pistol and flashlight in his/her left hand and his/her hand-held police radio in his/her right hand.

Prior to the OIS, Officer B held his/her flashlight in his/her left hand. When confronted by Subject 1, Officer B drew his/her service pistol with his/her right hand while maintaining control of his/her flashlight with his/her left hand. When Officer B fired his/her service pistol, he/she utilized a single (right) hand grip. While Officer B pursued Subject 2, he/she held his/her hand-held police radio in his/her left hand and his/her service pistol in his/her right hand. Officer B attempted to obtain a two-handed grip of his/her service pistol while still holding his/her police radio.

- **Situational Awareness** – Officer B broadcast the wrong street name when he/she broadcast that Subject 2 was running north. Officer B allowed an unidentified Victim to walk south and remain in the area of Subject 2's handgun. Officer B observed that Victim A appeared to be injured and requested an RA. Officer B walked in a northerly direction toward Victim A while monitoring Subject 2's handgun. Officer B observed that the victims came close to the handgun; however, they did not touch it. Officer B continued walking northbound.
- **Tactical Communications** – Officer B observed Subject 2 reappear on the west sidewalk, near Victim A's parked vehicle, holding a firearm. Officer B did not communicate to Officer A that Subject 2 was in possession of a firearm at the time.

When Officer B returned to the area of the dice game and illuminated the ground, he/she observed Subject 2's handgun in the grass west of the sidewalk. Officer B did not communicate his/her finding to Officer A, fearing it would alert the victims to the handgun's presence. When additional units arrived at their location, Officers A and B did not advise them of the firearm next to the west sidewalk, within the crime scene.

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

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

The BOPC found Officers A, B, K, and L's, tactics to warrant a Tactical Debrief. The BOPC found Officer Q's tactics to warrant Administrative Disapproval.

## **B. Drawing and Exhibiting**

- **Officer A**

## **First Occurrence**

According to Officer A, while following the Tahoe northbound, he/she observed the Malibu stop abruptly. Officer A observed Subject 1 exit the Malibu holding a handgun. Subject 1 began to fire the handgun in Officers A and B's direction. Officer A believed Subject 1 was going to try to "kill" Officers A or B. While operating his/her police vehicle, Officer A utilized his/her right hand to draw his/her service pistol in order to stop the threat posed by Subject 1. Officer A took a two-handed grip of his/her service pistol while holding his/her flashlight in his/her left hand. Officer A pointed his/her service pistol between the front driver's door and the A-frame pillar of the police vehicle.

## **Second Occurrence**

According to Officer A, Officer B advised him/her that Victim A may have been injured. Shortly thereafter, Officer A transitioned his/her radio into his/her left hand and unholstered his/her pistol. According to Officer A, he/she drew his/her pistol because the scene was still active, there may have been suspects who might shoot at the officers, and they were still waiting for additional resources to arrive.

The BOPC conducted a thorough evaluation of the reasonableness of Officer A's drawing and exhibiting of his/her service pistol. The BOPC considered Officer A's observations when encountering the shooting in progress. Officer A observed Subject 1 firing a handgun in a westerly direction towards Victims A, B, and C. Officer A heard gunshots and observed muzzle flashes coming from Subject 1. Officer A observed Subject 1 face a southerly direction, in the direction of Officers A and B and fire a handgun in their direction. Officer A believed that he/she was being fired upon. In defense of his/her life and his/her partner's life, Officer A drew his/her service pistol.

The BOPC noted the manner in which Officer A drew his/her service pistol. Officer A drew his/her service pistol from within his/her police vehicle as he/she was preparing to exit his/her police vehicle. Officer A's police vehicle's transmission was not in park at the time. Officer A stepped out of his/her police vehicle while maintaining his/her right foot on the brake pedal of his/her police vehicle to prevent it from rolling forward. The BOPC recognized Officer A's desire to defend him/herself against the imminent deadly threat posed by Subject 1.

The BOPC discussed Officer A's second drawing and exhibiting and considered the circumstances. At the time of Officer A's second drawing and exhibiting, Officer A had returned to the scene of the OIS and believed the crime scene was still active and was unsure if a third suspect would return. Additionally, Officer A did not know if the victims were in fact suspects and would possibly shoot at the officers. The BOPC noted the totality of the circumstances and considered the OIS which had occurred, the possible return of Subject 2 shortly after the OIS, limited resources, and the presence of possible suspects on the sidewalk and in nearby vehicles. The BOPC determined that Officer A had a reasonable belief that the situation could escalate to one involving the necessity of utilizing deadly force.

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

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

- **Officer B**

According to Officer B, while following the Tahoe, he/she observed a "muzzle flash" emanating from the passenger area of the Malibu and believed Subject 3's passenger was firing at the officers. Officer B exited his/her police vehicle, drew his/her service pistol with his/her right hand, and took a single-handed grip on it. Officer B maintained his/her grip on his/her flashlight in his/her left hand.

The BOPC considered Officer B's observations when he/she encountered the shooting in progress. Officer B observed a "muzzle flash" come from the passenger side of the Malibu and believed he/she was being fired upon. In defense of his/her life and his/her partner's life, Officer B drew his/her service pistol.

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

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

- **Officer K**

According to Officer K, he/she and his/her partner, Officer L, responded to the help call, taking a position on the perimeter. While checking vehicles leaving the perimeter, Officer K approached Witness D's vehicle and observed Subject 3 in the passenger compartment area, lying on the rear floorboard and attempting to conceal him/herself, Officer K immediately identified Subject 3's "very obvious" clothing description, which he/she recalled was previously provided by CD. Officer K recalled that Subject 3's description included a shirt with red sleeves. Officer K also considered that Subject 3 may have shot at Officers A and B and may still have been armed. Due to the potential of the incident escalating to the point of "death or serious bodily injury," Officer K made Officer L aware of his/her observations. Officer K drew his/her service pistol, and continued to verbalize, giving commands to Subject 3. Officer K did not know whether Witnesses C and D were hostages or suspects. Officer K chose to remain near the vehicle to prevent Subject 3 from potentially arming himself and harming Witnesses C and D. While Officer K did not observe any weapons in Subject 3's hands, he/she believed there was a potential he may have been armed.



The BOPC considered Officer K's knowledge regarding the OIS and suspect description while stationed at the perimeter. Officer K and his/her partner, Officer L, were checking vehicles, which were entering and exiting the perimeter, for Subject 3, based on the description given by Officers A and B. When approaching Witness D's vehicle, Officer K observed Subject 3 attempting to conceal himself in the backseat. Officer K believed Subject 3 may have shot at Officers A and B and therefore drew his/her service pistol. The BOPC noted the totality of the circumstances and believed it was reasonable for Officer K to believe that Subject 3 may have been armed and that he posed a deadly threat.

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

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

- **Officer L**

According to Officer L, he/she and his/her partner, Officer K, were searching vehicles for a shooting suspect from the OIS who had fled from Officers A and B. While searching vehicles that were approaching the perimeter, he/she observed his/her partner, Officer K, approach a vehicle. Officer L observed Officer K draw his/her service pistol drawn while at Witness D's vehicle. Officer L heard Officer K "yelling" for his/her assistance. Believing Subject 3 or one of the OIS suspects was armed and inside Witness D's vehicle, Officer L approached Officer K and drew his/her service pistol. Officer L held his/her service pistol in a low-ready position with his/her finger along the frame. Officer L observed Subject 3 with a white and red shirt that had blood on it. Subject 3 appeared to be trying to conceal himself on the floorboard of the rear passenger area.

The BOPC considered Officer L's knowledge regarding the OIS and suspect description while stationed at the perimeter. Officer L and his/her partner, Officer K, were checking vehicles entering and exiting the perimeter for suspects. Officer L observed Officer K approach Witness D's vehicle, draw his/her service pistol, and call for Officer L. Officer L articulated his/her long history of working with Officer K and the common phrases they used with each other to get each other's attention. Because Officer K had drawn his/her service pistol and called for Officer L, he/she believed he/she was in danger and needed his/her assistance. Officer L further believed Officer K had located a suspect inside the vehicle. Officer L drew his/her service pistol to protect his/her life and his/her partner's life. The BOPC discussed the totality of the circumstances and believed it was reasonable for Officer L to believe Subject 3 would be armed and pose a deadly threat.

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

Therefore, the BOPC found Officer L's drawing and exhibiting to be In Policy.

- **Officer Q**

According to Officer Q, he/she responded to an "officer needs help" call at Officers K and L's location. Upon his/her arrival, Officer Q observed Officers K and L ordering people out of Witness D's vehicle. Officer Q believed that Subject 3 may have discharged a firearm at officers, that shots had been fired, and was not sure if the suspect remained armed or if he had a firearm on him. Believing Subject 3 was in Witness D's vehicle, Officer Q deployed a ballistic shield and drew his/her service pistol. Officer Q stated that he/she held his/her service pistol at a low-ready position, but pointed the muzzle in the direction of Subject 3 when the rear passenger door of Witness D's vehicle was opened. Officer Q said that when he/she pointed the muzzle at the Subject 3's center mass, he/she perceived Subject 3 as a "potential threat" and placed his/her finger on the trigger in the event Subject 3 had a gun and fired at officers. Officer Q stated that when an officer is presented with a threat and "you come up on target, that's when you put your finger on the trigger in the event that you have to discharge a round." Officer Q approached the rear passenger door of the vehicle and advised the officers that he/she had a ballistic shield. Officer Q held the ballistic shield in his/her left hand, and his/her service pistol with his/her right hand. Officer Q said that once Subject 3 exited the vehicle and was on the ground, he/she transitioned to a low-ready position.

The BOPC considered Officer Q's observations at the time of the incident and his/her belief that Subject 3 had possibly fired at Officers A and B. The BOPC considered Officer Q's perception at the time and determined it was reasonable for him/her to draw his/her service pistol to apprehend an armed suspect. Additionally, the BOPC recognized that Officer Q drew his/her service pistol while holding the ballistic shield in a manner consistent with Department tactical training.

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

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

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

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

- **Officer A** – (pistol, 13 rounds)

**Volley One** – (pistol, six rounds)

According to Officer A, he/she observed Subject 1 exit the Malibu from the front passenger door and fire a semiautomatic handgun. Officer A observed Subject 1 fire in a southerly direction. Officer A observed “muzzle flashes” and believed Subject 1 was firing in Officer A’s direction. Officer A feared Subject 1 was going to “kill” him/her or Officer B. Subject 1 appeared to be behind the door and then “rushed from behind the door” towards the west curb. Officer A observed that Subject 1 was continuing to fire his handgun in a westerly direction. Officer A estimated that Subject 1 fired a total of approximately four to five rounds. Officer A exited the front driver’s side of his/her police vehicle, aimed at Subject 1’s center mass, and discharged approximately six to seven rounds at Subject 1 in a northwesterly direction.

The investigation determined that Officer A discharged six rounds.

According to the investigation, Officer A recalled firing his/her first volley prior to Subject 1 pointing his pistol towards the west sidewalk. However, a review of the security video determined that the officers’ police vehicle was still driving north as Subject 1 pointed his pistol toward the west sidewalk.

According to the investigation, Subject 1 exited the Malibu and with his right hand, pointed a handgun in a northerly direction toward Victim A; two muzzle flashes appeared to emanate from Subject 1’s handgun. Victim A ran northbound on the west sidewalk. Subject 1 turned counterclockwise with the handgun in his right hand at chest level and pointed it in a westerly direction toward Victims B, C, and the unidentified individuals. Subject 1 appeared to manipulate his handgun as if to load a round into the chamber. Simultaneously Subject 2 exited the rear passenger side of the Malibu and ran northwesterly toward Victim A. A muzzle flash emanated from Subject 2’s upper chest area. Subject 1 walked west, stood west of the Malibu’s open passenger door of the Malibu, and held his handgun in a two-handed shooting position. Subject 1 pointed his handgun in a southwesterly direction. Subject 1 then turned toward Officers A and B and from a two-handed low ready position, raised the handgun to chest level, and pointed the muzzle of the handgun in Officers A and B’s direction.

The BOPC conducted a thorough review and analysis of the reasonableness, necessity, and proportionality of Officer A’s lethal use of force during Volley One. The BOPC noted that the investigation determined Officers A and B were facing north, south of Victims A, B, and C. Subject 3 and his two passengers, Subject 1 and Subject 2, drove southbound toward Victim A’s vehicle, approximately 41 feet north of Officers A and B’s police vehicle. As Officer A drove northbound following behind the Tahoe, he/she observed Subject 1 exit the Malibu’s front passenger’s door and begin to fire four to five rounds from what he/she believed to be a semi-automatic handgun in a westerly direction towards the west sidewalk. Officer A then observed Subject 1 fire a handgun at Officers A and B. Fearing for his/her life and the life of Officer B, Officer A utilized his/her service pistol and fired his/her first volley of six rounds at Subject 1’s torso in order to stop the deadly threat that Subject 1 posed.

The BOPC noted Officer A had initially intended to follow the Tahoe but came upon the shooting in progress. Officer A then observed Subject 1 turn and fire in Officers A and B's direction. The BOPC video footage which captured Subject 1 turning in a southerly direction while holding what appeared to be a handgun pointed in a southerly direction at his chest level. The BOPC determined that Subject 1 posed an imminent, deadly threat to not only the victims on the west sidewalk but also Officers A and B.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe Subject 1's actions presented an imminent threat of death or serious bodily injury and that the use of deadly force was proportional, objectively reasonable, and necessary.

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

**Volley Two – (pistol, seven rounds)**

According to Officer A, after Subject 1 fired his handgun toward the west sidewalk, he returned to the Malibu, entering the vehicle on the front passenger side. Instead of reversing north, away from the officers, the Malibu drove south, towards the officers. Officer A believed Subject 3 had the ability to reverse his vehicle instead of driving towards the officers. Officer A also believed that since Subject 3 drove towards the officers, he probably wanted to "kill" the officers. Believing that Subject 1 had already fired at him/her and his/her partner, Officer A believed Subject 1 would continue to fire while driving past the officers. In fear for his/her life, Officer A aimed at the front passenger side of Subject 3's windshield and discharged "three to four rounds" from his/her service pistol; Officer A believed Subject 1 was seated in the front passenger seat, armed with his handgun. Officer A did not know if Subject 1 fired at officers as Subject 3 drove southbound towards Officer A and his/her partner.

The investigation determined that Officer A discharged seven rounds. There were approximately two seconds between Officer A's first and second volley.

Subsequent to the OIS, Subjects 1 and 3 abandoned the Malibu after it collided with a wooden pole. During the OIS investigation, a semiautomatic pistol was recovered from the front passenger floorboard of the Malibu. It was determined upon an examination of the Malibu that the front passenger side door sustained two perforating impacts; one went through the door and the other through the window.

According to the investigation, when detectives asked Officer A if he/she could observe Subject 1 firing at him/her, Officer A stated, "I was not able to see that because I laid down rounds toward his direction because I was scared that he was going to keep on shooting and I -- I don't want to get killed." Officer A further stated he/she "just heard rounds."

In this case, the BOPC conducted a thorough review and analysis of the reasonableness, necessity, and the proportionality of Officer A's use of lethal force during Volley Two.

The BOPC noted that Officers A and B both believed Subject 1 would continue shooting at the officers as the Malibu approached and passed Officers A and B. The BOPC considered that Officer A articulated his/her direction of fire was not at the vehicle itself, but at Subject 1, whom he/she believed was the source of the imminent threat to his/her life. Officer B also articulated that his/her intended target was Subject 1's position and not solely the vehicle's windshield. The BOPC determined that Officers A and B were not attempting to fire solely at the Malibu, but instead at Subject 1 in order to stop what Officer A perceived to be a threat.

The BOPC also considered the UOFRB Majority opinion, which was critical of Officer A's decision to fire at Subject 1's position as Subject 3 drove southbound. Officer A believed Subject 3 would continue to fire at him/her and Officer B as Subject 3 drove southbound towards the officers. The UOFRB Majority considered the Department's policy on the use of deadly force. The UOFRB Majority noted that imminent harm is not the fear of future harm but one that must instantly be confronted. The UOFRB Majority opined that when Officer A fired the second volley from his/her service pistol, his/her life was not in imminent danger and Subject 1 did not pose a threat of death or serious bodily injury at that time. The UOFRB majority considered what it believed to be the lack of evidence showing that Subject 1 had fired at Officers A and B after re-entering the Malibu. The UOFRB Majority also considered the investigation, which revealed Subject 1 appearing to pull the slide of his handgun backward due to a possible handgun malfunction. The UOFRB determined it was possible that Subject 1's handgun was not functioning at the time and therefore did not pose a threat of serious bodily injury or death to Officer A. The UOFRB majority noted the investigation had revealed Subject 1's handgun was recovered from Subject 3's front passenger floorboard lying on its left side with its slide partially set to the rear by a jammed discharged cartridge case.

The BOPC, however, considered additional evidence gathered subsequent to the UOFRB having been held and determined that Officer A's use of lethal force was objectively reasonable given the totality of the circumstances. The BOPC considered that Subject 1 had turned and pointed his handgun in Officers A and B's direction after firing in a westerly direction; Officer A believed that Subject 1 had fired his handgun at the officers. Subject 1 re-entered the Malibu and Subject 3 began driving towards Officers A and B. The BOPC believed it was reasonable for Officer A to believe that Subject 1 would continue shooting at the officers, thus presenting an imminent threat of death or serious bodily injury to Officers A and B. The BOPC also considered the limited options Officer A had prior to Subject 3 driving toward Officers A and B. While Officer A could have redeployed from the Malibu's path, he/she would have had to rely on the cover provided by his/her police vehicle and its ballistic panels.

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 use of deadly force was proportional, objectively reasonable, and necessary.

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

- **Officer B – (pistol, five rounds)**

According to Officer B, he/she heard approximately three gunshots and observed one muzzle flash emit from the area of the Malibu. Believing Subject 1 posed an "imminent threat" to his/her life as well as Officer A's life, Officer B exited his/her police vehicle, drew his/her service pistol, and discharged three to four rounds in a "burst" at Subject 1 while the Malibu was stationary. According to Officer B, he/she ceased firing when the Malibu drove away.

The investigation revealed that Officer B discharged five rounds. While Officer B recalled the Malibu being stationary when he/she fired his/her rounds, a review of the security video determined that the Malibu was driving south when Officer B fired all five rounds. When asked by investigators if the muzzle flash was emanating from inside or outside the Malibu, Officer B stated, "That's something I don't -- I don't -- I don't know."

The BOPC conducted a thorough review and analysis of the reasonableness, necessity, and proportionality of Officer B's use of lethal force. The BOPC considered that prior to the OIS, Subject 3 and his passengers, Subject 1, and Subject 2, drove south, stopping south of Victim A's vehicle. As Officers A and B approached the Malibu, Officer B observed a muzzle flash emanating from the passenger side of the Malibu and heard gunshots being fired. Fearing for his/her life and his/her partner's life, Officer B exited his/her police vehicle and discharged five rounds from his/her service pistol at the passenger side of the Malibu (believing it was stationary) to stop what he/she perceived to be an imminent threat of death.

The BOPC noted that Officers A and B both believed Subject 1 would continue shooting at the officers as the Malibu approached and passed Officers A and B. The BOPC considered that Officer B articulated his/her direction of fire was not at the vehicle itself, but at Subject 1, whom he/she believed was the source of the imminent threat to his/her life. Officer B also articulated that his/her intended target was Subject 1's position and not solely the vehicle. The BOPC determined that Officer B was not attempting to fire solely at the Malibu, but instead at Subject 1 in order to stop Officer B's perceived threat.

The BOPC noted that the UOFRB Majority was critical of Officer B's belief that he/she fired at the Malibu, which Officer B believed was stationary at the time of Officer B's OIS. The investigation revealed that Subject 3 had already begun to drive south on towards the officers when Officer B discharged his/her service pistol. Officer B stated that he/she fired at what he/she believed was Subject 1's position which was the passenger side of Subject 3's vehicle. The UOFRB Majority opined that Officer B did not have proper target acquisition when firing his/her service pistol and was not sure of his/her target.

The UOFRB Majority was also critical of Officer B's belief that he/she was being fired upon at the time he/she fired his/her service pistol, since Officer B could not recall if the muzzle flashes he/she had observed were inside or outside of the Malibu in conjunction with the fact that Officer B fired at the passenger side while the Malibu was already in motion. Officer B could not make this distinction but believed Subject 1 would continue to fire at Officers A and B as Subject 3 drove southbound toward Officers A and B. The UOFRB Majority considered the Department's policy on the use of deadly force and noted that imminent harm was not the fear of future harm but one that must instantly be confronted. The UOFRB Majority opined that when Officer B discharged his/her service pistol, his/her life was not in danger and Subject 1 posed no threat to Officer B at the time. The UOFRB considered the lack of evidence demonstrating that Subject 1 had fired at Officers A and B either when re-entering the Malibu or after entering it. The UOFRB Majority also considered the investigation, which revealed Subject 1 appeared to pull the slide of his handgun backwards due to a possible handgun malfunction. The UOFRB Majority determined it was possible that Subject 1's handgun was not functioning at the time and therefore did not pose a threat of serious bodily injury or death to Officer B. The UOFRB Majority noted the investigation had revealed Subject 1's handgun was recovered from the Malibu's front passenger floorboard, lying on its left side with its slide partially set to the rear by a jammed discharged cartridge case.

The BOPC considered additional evidence gathered subsequent to the UOFRB having been held and determined that Officer B's use of lethal force was objectively reasonable given the totality of the circumstances. The BOPC considered that Subject 1 had already fired his handgun in a westerly direction while standing outside of the Malibu and then turned in the direction of Officers A and B pointing his handgun southbound. Subject 1 re-entered the Malibu, and Subject 3 began driving towards Officers A and B. The BOPC believed it was reasonable for Officer B to believe Subject 1 was an active threat that would continue shooting and would present an imminent threat of death or serious bodily injury to Officers A and B. The BOPC considered the limited options Officers A and B had prior to Subject 3 driving towards Officers A and B. An alternative to Officers A and B's action could have involved redeploying but would have caused Officers A and B to be dependent on the cover provided by their police vehicle's ballistic panels.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe Subject 1's actions presented an imminent threat of death or serious bodily injury and that the use of deadly force was proportional, objectively reasonable, and necessary.

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