

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

**OFFICER-INVOLVED SHOOTING – 017-21**

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

Hollenbeck                      3/19/21

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

Officer A    13 years, 1 month

**Reason for Police Contact**

Officers attempted to make contact with a driver who had parked his vehicle in a red zone. The driver placed his vehicle in reverse, struck the front bumper of the police vehicle, and led officers in a vehicle pursuit. The driver lost control of his vehicle and collided into a residence. The driver exited the vehicle armed with a handgun and pointed the gun at the officer, resulting in an officer-involved shooting (OIS). The driver was struck by gunfire and subsequently taken into custody.

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

Subject: Male, 24 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 March 1, 2022.

## **Incident Summary**

On March 19, 2021, Officers A and B were conducting patrol. Officer A was the driver of a marked black and white police Sport Utility Vehicle (SUV) equipped with ballistic door panels and a Digital In-Car Video System (DICVS). According to Officer A, before they began to patrol, the vehicle's DICVS, forward facing red light, and siren were inspected. The equipment was found to be fully functional.

Officers A and B had been assigned as partners approximately eight times in a two-deployment period (DP) span. During their previous times working together, the officers had discussions regarding tactics related to contact/cover responsibilities, traffic/pedestrian stops, and foot pursuits related to apprehension versus containment.

The officers' BWV captured them patrolling an area they were familiar with as being frequented by gang members who have been involved in recent gang shootings.

According to Officer A, he/she observed a grey four-door vehicle parked along the east curb in a red zone, in violation of California Vehicle Code (CVC) Section 21458.

According to Officer B, Officer A read out the license plate and he/she utilized the officers' Mobile Digital Computer (MDC) and conducted a license plate inquiry on the license plate. As soon as the vehicle information was displayed, Officer B advised Officer A that the vehicle was registered to the Subject.

According to Officer A, he/she has had prior contacts with the Subject and was aware that he/she was a member of the criminal street gang known to frequent this area. Officer A advised Officer B of the Subject's prior gun arrest. According to Officer A, it was his/her intent to conduct a traffic stop on the vehicle for the observed red zone parking violation.

Officer B broadcast that the officers were on a traffic stop at that location. Officer A negotiated a northbound turn, he/she chirped his/her police siren, and positioned his/her police vehicle behind the Subject's vehicle while activating his/her overhead emergency lights. The DICVS captured the Subject's vehicle's rear tail lights illuminate then the reverse lights turn on. Communications Division (CD) acknowledged the officers' broadcast and their location. The officers opened their respective doors, activated their BWV cameras, and began exiting the vehicle.

According to Officer A, he/she observed the Subject seated in the driver's seat of the Subject's vehicle, and looking in the driver's side view mirror. Officer A's BWV captured him/her telling the Subject to turn off the car. Suddenly, the Subject's vehicle reversed and struck the right front side of the bumper of the police vehicle. The Subject then drove forward and fled the scene in violation of CVC 20002, Misdemeanor Hit and Run.

According to Officer A, when the Subject's vehicle reversed its direction, he/she heard the distinct sound of a handgun slide being racked.

Officers A and B entered their police vehicle and began to follow the Subject's vehicle. Officer A directed Officer B to broadcast they were in pursuit. Communications Division acknowledged the broadcast. Officer A placed his/her safety belt on and instructed Officer B to do the same. Officer B's BWV captured as he/she attempted to place his/her safety belt on but was unsuccessful because the seatbelt's locking mechanism prevented the belt slack from extending.

According to Officer A, as the Subject evaded the officers, the Subject's vehicle was traveling at a high rate of speed, which he/she estimated to be between 50 to 60 miles per hour (mph). Officer A stated that he/she believed they were pursuing a man with a gun due to the distinct sound of a handgun slide being racked, the Subject's prior arrest involving a handgun, and his gun affiliation.

The Subject's vehicle negotiated a wide right turn, traveled east at a high rate of speed, and failed to stop for the posted stop sign, in violation of CVC Section 22450(a). The Subject then drove his vehicle on the wrong side of the road, in violation of CVC 21651(b), as he maneuvered around and nearly collided with a black pick-up truck stopped at the stop sign at the intersection. The Subject's vehicle accelerated and continued east.

Officer A's BWV captured him/her telling Officer B they were in pursuit of a "415 man with a gun." Officer B acknowledged by subsequently broadcasting the information.

The Subject's vehicle continued east at a high rate of speed. The Subject again drove his vehicle on the wrong side of the road to overtake and pass a white mid-size SUV. The Subject failed to stop for the posted stop sign at the next intersection and struck a roadway dip as he entered the intersection, causing his vehicle to go airborne as he continued east.

The Subject's vehicle arrived at a t-intersection, failed to stop for the posted stop sign, and attempted to negotiate a left turn (north). The Subject lost control of his vehicle, struck the east curb, and collided into a residence.

Officer B broadcast that the vehicle collided into a house and requested a Rescue Ambulance (RA). Communications Division acknowledged the broadcast.

Officer A stopped the police vehicle facing in a northeasterly direction, across the roadway, in front of the southern portion of the driveway of the residence. Officer A then placed the vehicle in park, removed the keys, and exited the driver's door. Simultaneously, Officer B completed broadcasting and then exited the passenger side door.

Officer A ran in a northeasterly direction toward the front of a black vehicle parked in front of the residence. At the same time the Subject was captured on Officer A's BWV running from the driver's side door of the Subject's vehicle towards the rear of the vehicle. As Officer A was running, he/she told the Subject not to move, and shouted to

Officer B that the Subject was armed with a gun. Simultaneously, Officer A neared the front of the black vehicle, unholstered his/her pistol, and held it in a two-handed grip. The Subject continued running in a southern direction across the front lawn toward the driveway and ignored the officers' commands to stop. Officer A then unholstered his/her pistol.

In the interim, Officer B ran from the passenger side of the police vehicle toward the driveway and yelled at the Subject not to move. At the same time, Officer B unholstered his/her service pistol.

As Officer B ran towards the driveway, he/she again yelled at the Subject not to move. Officer B held his/her pistol in a two-handed, low ready position as the Subject ran across the driveway toward the fence line dividing the residence and the home next door.

Fearing imminent bodily injury or death, Officer A raised his/her service pistol in a two-handed shooting stance and fired one round toward the Subject in a southeasterly direction from an approximate distance of 28 feet. Officer A's BWV captured as he/she fired at the Subject who was about to enter the north side of the neighboring home. The Subject was struck and immediately fell on his backside into the tall grass and up against the north wall of the next door residence. According to Officer A, after the Subject fell, he/she assessed and observed the Subject on his knees no longer holding the firearm. Officer A then lowered his/her pistol.

Officers A and B were now positioned on the driveway, near the north/south sidewalk with their pistols pointed toward the Subject, as Officers A and B repeatedly gave the Subject commands. Officer A stated that he/she observed both of the Subject's hands and did not see the gun. At that time, Officer A did not know the location of the Subject's firearm.

Officer B's BWV captured as he/she attempted to broadcast a "shots fired, officer needs help" call.

Officer A's BWV captured as he/she also attempted to broadcast a "shots fired, officer needs help" call, advising that the Subject was down.

Communications Division asked the officers to verify their location and broadcasted the "Officer Needs Help" radio call, and multiple uniformed personnel responded.

Officers continued to hold their position in the driveway. They held their pistols at a low ready position and continued to verbalize with the Subject not to move as they waited for additional units to arrive.

Officers C and D were the first responding unit to arrive on scene. As Officer C entered the driveway, he/she unholstered his/her pistol with his/her right hand and pointed it to the ground. Officer A then directed Officer C to help him/her clear the Subject's vehicle

and ensure no one else was inside. Both officers walked along the driver's side of the vehicle and cleared it without incident.

Officer D unholstered his/her service pistol and held it in a one hand, low-ready position. He/she stood left of Officer B as they continued to cover the Subject, who was not yet in custody.

Officer A explained to Officers C and D that the Subject's firearm was in the immediate area where the Subject had fallen and that the Subject was the only suspect involved. Officer A then advised the officers that they were all going to approach the Subject to take him into custody, and he/she was going to be the handcuffing officer. Officers A and C then holstered their pistols and donned a pair of latex gloves. Officers A and D verbalized with the Subject and told him not to move. After donning his/her gloves, Officer C unholstered his/her pistol a second time and held it in a two-handed, low ready position.

As the officers approached the Subject, Officer A directed Officers B and D to look for the Subject's firearm. Both Officers B and D were cover officers as they moved east down the driveway together with their pistols at the low-ready position. As they moved towards the Subject, Officer C holstered his/her pistol, and Officers A and C followed behind as the arrest team.

When the officers were within several feet of the Subject, they stopped to look for the Subject's firearm. According to Officer A, he/she observed the firearm approximately four feet east of the Subject's location in the tall grass and advised the officers of its location. Officer A then approached the Subject and grabbed him by both wrists and dragged him towards the driveway, away from the gun.

Officer C assisted and grabbed the Subject's right wrist with his/her right hand. Officer C then took a kneeling position and turned the Subject over onto his stomach. Officer E arrived on scene and assisted Officers A and C as they took the Subject into custody. Officer E grabbed the Subject's left wrist with his/her hands as he/she took a kneeling position and placed his/her left knee on the Subject's buttocks. He/she assisted as the officers brought the Subject's arms towards his back.

Officer E immediately released his/her grip and stood up once both Officers A and C had control of both arms. Officer A removed his/her handcuffs with his/her right hand and handcuffed the Subject. Officer A then proceeded to conduct a search of the Subject for any additional weapons with negative results.

Officer A directed Officer C to remain with the Subject. Officer C positioned the Subject onto his right side in the recovery position and waited for the arrival of the Rescue Ambulance. The Subject moved himself face down onto his stomach and remained in that position until paramedics arrived.

Officers A and B positioned themselves away from the scene and stood along the sidewalk overlooking the driveway as they waited for a supervisor to arrive. During this time Officers A and B briefly spoke to each other to ensure they were okay.

Officer B's BWV captured Officer F standing near the Subject's vehicle and advise that he/she located an extended firearm magazine near the vehicle. Officer B repeated that information to Officer A.

Officer A's BWV captured Sergeants A, B, and C arriving on scene. Sergeant A identified the involved officers and immediately had Officers A and B separated and monitored. Sergeant A directed Sergeant C to monitor Officer A and to obtain a Public Safety Statement (PSS). Sergeant A also directed Sergeant B to monitor Officer B and obtain a PSS from him/her. Sergeant A declared him/herself the Incident Commander (IC) via the radio; he/she then directed officers to establish an inner and outer crime scene perimeter.

Sergeant C directed Officer A to turn off his/her BWV, moved him/her away from the scene and obtained his/her PSS. Sergeant B also directed Officer B to turn off his/her BWV, moved him/her away from the scene and obtained his/her PSS.

Officers "door knocked" the residences of the two involved residences to verify if anyone inside was injured. The occupants met with officers and stated they were uninjured.

A Los Angeles Fire Department (LAFD) Engine, along with a Rescue Ambulance (RA), arrived at scene and began medical treatment on the Subject, who had suffered a single gunshot wound to his back.

### **BWV and DICVS Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes

### **Los Angeles Board of Police Commissioners' Findings**

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

#### **A. Tactics**

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

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

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

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

## **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. 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, suspects, persons in custody, suspects 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 suspect.

## **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 Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*  
(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

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

**Planning** – Officers A and B were assigned as partners approximately eight times in two-deployment periods (DP). During their previous shifts working together, the officers had discussed tactics related to contact/cover responsibilities, traffic/pedestrian stops, and apprehension versus containment as it pertains to foot pursuits. Observing the Subject’s vehicle parked in a red zone, Officers A and B planned to investigate the parking violation. The Subject’s actions that followed limited Officers A and B’s ability to refine their tactical plan.

**Assessment** – Officer A’s knowledge of the Subject, combined with hearing the “distinct” sound of handgun slide “racking,” led Officer A to believe the Subject was armed with a handgun. When the Subject crashed into the house, Officer A assessed the need to render aid to the Subject and/or the occupants of the house.

Losing sight of the Subject, Officer A assessed the need to redeploy toward the driveway. Seeing the Subject run from the Subject's vehicle holding a handgun, Officer A assessed that the situation could escalate to one involving the use of deadly force. Seeing the Subject point a handgun in his/her direction and then Officer B's direction, Officer A assessed the need to use deadly force. After the OIS, Officers A and B assessed the need for additional units before approaching the Subject. When Officers C and D arrived, Officer A assessed the need to clear the Subject's vehicle before apprehending the Subject.

**Time** – The Subject fled when officers attempted to investigate the parking violation and again after he crashed into the house. When the Subject pointed his handgun in the officers' directions, he eliminated the time officers had to de-escalate the situation. Approximately 58 seconds elapsed between the traffic collision and the OIS. Following the OIS, Officers A and B slowed the incident, waiting for additional officers to arrive before approaching the Subject. When additional units arrived, officers used time to designate roles, formulate a tactical plan, and clear the Subject's vehicle before approaching the Subject systematically. Before apprehending the Subject, officers took time to ensure he no longer possessed his handgun.

**Redeployment and/or Containment** – After the Subject's vehicle collided with the single-family-style house, Officer A stopped the police vehicle facing in a northeasterly direction, across the roadway, in front of the southern portion of the house's driveway. Officer A exited the police vehicle's driver's door and redeployed to a vehicle parked in front of the residence, using the parked vehicle as cover. According to Officer A, he/she redeployed from his/her police vehicle to render aid to the Subject or the house's occupants. Simultaneously, Officer B completed broadcasting and then exited the passenger side door.

**Other Resources** – When Officers A and B broadcasted they were in pursuit, CD requested backup units, an Air Unit, and a supervisor. After the collision, Officer B requested a RA. After the OIS, Officers A and B requested help, and the officers waited for additional units to arrive before apprehending the Subject. Before apprehending the Subject, officers requested RAs for the Subject and the occupants of the residences.

**Lines of Communication** – Seeing the Subject's vehicle parked in the red zone, Officer A advised Officer B of the Subject's prior arrest. When the Subject fled, Officer A advised Officer B of his/her belief that the Subject was armed. When the Subject fled on foot, both officers ordered him to stop. Seeing the Subject holding a handgun, Officer A warned his/her partner. Following the OIS, Officers A and B continued to communicate with each other, CD, and the Subject, as well as responding units. The BOPC noted that while the Subject's actions limited Officers A and B's ability to communicate with him, the officers communicated with each other, CD, and the Subject to the extent possible during the entire incident.

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

### **1. Cover/Concealment**

According to Officer A, at the termination of the vehicle pursuit, he/she exited his/her vehicle to render aid to the Subject and/or the occupants of the residence. Officer A ran in a northeasterly direction toward the front of a black vehicle parked in front of the residence. Observing the Subject exit his vehicle, Officer A ordered him not to move. As the Subject ran around the rear of his vehicle, Officer A observed a handgun in his right hand. Because the Subject had ostensibly racked the slide and had not left the handgun in his vehicle when he fled on foot, Officer A believed the situation could escalate to one involving the use of deadly force. As the Subject continued running in a southeasterly direction, Officer A lost sight of him due to shrubbery in the front yard. To see the Subject, Officer A redeployed toward the driveway. As Officer A entered the driveway, he/she observed the Subject pointing the handgun back in his/her direction while running forward. The Subject then swung the handgun in Officer B's direction. Officer B had moved toward the driveway as the Subject ran in a southeasterly direction toward the residence next door, the adjacent property. According to Officer B, as he/she reached the front tire of his/her police vehicle, he/she had observed the Subject running away from the Subject's vehicle. Officer B moved forward, believing officers were in foot pursuit of the Subject at that point. Officer B was near the driveway when he/she heard Officer A say, "Partner, gun!"

The BOPC noted that after the Subject's vehicle collided with the house, Officer A deployed from the police vehicle to render aid to the Subject and/or the occupants of the residence, using a parked vehicle for cover and to obtain a better view of the situation. The BOPC opined that Officer A's thought process was rational in that it demonstrated his/her concern for the Subject's and the public's well-being. By using the parked vehicle for cover while assessing, Officer A also demonstrated his/her concern for officer safety.

The BOPC noted that after losing sight of the Subject due to the shrubbery, Officer A redeployed toward the driveway. While the BOPC would have preferred that Officer A had remained behind cover, the Board noted that the Subject was running in Officer B's direction with a handgun. The BOPC also noted that Officer A discharged his/her round when he/she observed the Subject "swing" the handgun in Officer B's direction. Had Officer B remained in his/her position, unable to see the Subject, he/she would not have been able to render aid to his/her partner.

The BOPC noted that that Officer B deployed from the police vehicle believing that officers were in foot pursuit of the Subject. The Subject had fled from his vehicle and was heading toward the rear of an adjacent property to avoid

apprehension. The BOPC also noted that while he/she had been told by Officer A they were pursuing a “415 man with a gun,” Officer B had not seen the Subject’s handgun when he/she left cover. Also, Officer B was already near the driveway when he/she heard Officer A say, “partner, gun!”

While the BOPC would have preferred that Officer B had remained behind cover, the Board noted that policy does not prohibit officers from pursuing armed suspects. While policy dictates that officers operate in containment mode while pursuing armed suspects on foot, based on his/her distance from the Subject and the fact that he/she took time to request a RA before exiting the police vehicle, Officer B did not appear to be in apprehension mode when he/she left the cover of his/her police vehicle. Furthermore, Officers A and B had previously discussed when to operate in apprehension versus containment mode during a foot pursuit.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were not a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:
  - **Tactical Vehicle Deployment** – Observing the Subject’s vehicle parked in a red zone near an intersection, Officers A and B attempted a traffic stop, positioning the front of their police vehicle near the rear of the Subject’s vehicle. Fleeing the scene, the Subject reversed into the police vehicle. When conducting a traffic stop, officers should position their police vehicle an appropriate distance behind the violator’s vehicle.
  - **Safety Belt** – During the vehicle pursuit, Officer B attempted to don his/her safety belt; however, the locking mechanism engaged, preventing the belt from extending across his/her body. Due to the locking mechanism and the pursuit’s short duration, Officer B did not don his/her safety belt.
  - **Code Three Equipment** – During the pursuit, Officer A activated the police vehicle’s forward-facing red light but did not activate the siren.
  - **Situational Awareness** – During this incident, the Subject backed into Officers A and B’s police vehicle, scuffing the front bumper; the officers were uninjured. The Subject then fled. In response, Officer B advised CD of the incident. CD then broadcast that officers were in pursuit of an assault on a police officer suspect. Officers on patrol are expected to accurately perceive what is occurring. To avoid confusion, an officer’s broadcast should accurately depict a suspect’s actions.
  - **Profanity** – When the Subject fled on foot from his vehicle, Officer A used profanity while ordering him not to move. The profanity was not personal or excessive and was intended to gain compliance.

- **Handcuffing Protocols** – Officer A handcuffed the Subject, immediately searched him, and then placed him in the prone position. According to Officer A, he/she did not want to place the Subject in a seated or recovery position as he/she did not know if the Subject had suffered a lower-body or back injury. Officer A directed Officer C to remain with the Subject until a RA arrived. Officer C placed the Subject on his right side in a recovery position. The Subject subsequently positioned himself back in the prone position, where he remained until paramedics arrived. According to Officer C, he/she knew not to unnecessarily move people with possible spinal injuries. Also, Officer C believed the Subject was more comfortable canted toward his stomach due to his injury. Officer C monitored the Subject until the RA arrived; the Subject was conscious and breathing the entire time.
- **Rendering Aid** – While officers appropriately requested a RA and initially placed the Subject in a recovery position, they did not provide medical assistance. It is the BOPC's expectation that officers shall provide basic and emergency medical assistance to all members of the community, including persons in custody and subjects of a use of force, to the extent of the officer's training and experience in first aid and to the level of equipment available to the officer at the time assistance is needed.
- **Non-Medical Face Coverings** – Officers A and B were not wearing non-medical face coverings at scene as directed by the Chief on May 20, 2020. Additional personnel at scene not wearing non-medical face coverings will be addressed at the Divisional level.

## **Command and Control**

- According to the FID investigation, Sergeants A, B, and C arrived on scene at approximately the same time. Sergeant A identified the involved officers and immediately had Officers A and B separated and monitored. Sergeant A directed Sergeant C to monitor Officer A and to obtain his/her PSS. Sergeant A also directed Sergeant B to monitor Officer B and obtain his/her PSS. Sergeant A declared him/herself the IC. Sergeant A also ensured that the crime scene was secured, evidence was preserved, and the area was canvassed for witnesses, video footage, or possible victims. As directed, Sergeant C separated, monitored, and obtained a PSS from Officer A; Sergeant B separated, monitored, and obtained a PSS from Officer B.

The overall actions of Sergeants A, B, and C were consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

These topics were to be discussed at the Tactical Debrief.

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

In conducting an objective assessment of this case, the BOPC determined that Officers A and B's tactics were not a substantial deviation from approved Department tactical training.

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.

Although it was determined that Officer C would not receive formal findings, the BOPC believed he/she would benefit from attending the Tactical Debrief to discuss this incident.

Thus, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- **Officer A**

As the Subject ran around the rear of his vehicle, Officer A observed a black semiautomatic handgun in his right hand. In response, Officer A unholstered his/her service pistol. Because the Subject had ostensibly racked the slide and had not left the handgun in his vehicle when he fled on foot, Officer A believed the situation could escalate to one involving the use of deadly force.

The BOPC evaluated Officer A's drawing and exhibiting of his/her service pistol. The BOPC noted Officer A's knowledge of the Subject, the gang, the area where this incident occurred, and the recent shootings. The BOPC also noted that Officer A unholstered his/her service pistol when he/she observed the Subject holding the handgun. The BOPC further noted Officer A's belief that the situation could escalate to the use of deadly force.

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

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

- **Officer B**

According to Officer B, as he/she reached the front tire of his/her police vehicle, he/she had observed the Subject running away from his vehicle. Officer B moved forward believing officers were in foot pursuit of the Subject at that point. Officer B was near the driveway when he/she heard Officer A say, “[P]artner, gun!” Focusing toward the Subject’s waistband, Officer B observed an object he/she believed to be a handgun. Officer B knew that handguns can “create bodily injury” and/or “kill” people. In response, Officer B unholstered 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, 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.

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

- **Officer A** – (pistol, one round)

**Background** – The OIS incident occurred in the driveway of a residence. The FID investigation determined the background was the north side of the adjacent residence.

As the Subject ran around the rear of his vehicle, Officer A observed a black semiautomatic handgun in his right hand. Because the Subject had ostensibly racked the slide and had not left the handgun in his vehicle when he fled on foot, Officer A believed the situation could escalate to one involving the use of deadly force. As the Subject continued running in a southeasterly direction through the front of the residence, Officer A lost sight of him due to shrubbery in the front yard. To see the Subject, Officer A redeployed toward the driveway. As Officer A entered the driveway, he/she observed the Subject pointing the handgun back in his/her direction while running forward. Per the FID investigation, DICVS footage depicts the Subject’s right arm extended toward Officer A. The Subject then swung the handgun in Officer B’s direction. Officer B had deployed from his/her police vehicle and moved toward the driveway as the Subject ran in a southeasterly direction toward the residence next door. Believing that the Subject was going to shoot him/her and his/her partner, Officer A discharged one round at the Subject from approximately 28 feet.

The BOPC evaluated the reasonableness, necessity, and proportionality of Officer A’s use of lethal force. The BOPC noted that in addition to patrol, Officer A had previously worked in Hollenbeck Area as both a homicide investigator and a gang officer. During his/her time in Hollenbeck Area, Officer A had learned that the area

is frequented by gang members. At the time of this incident, Officer A was aware of recent shootings involving gang members. The BOPC also noted that while working as a homicide investigator, Officer A had interviewed the Subject when he/she was incarcerated on a firearms-related charge. Around that time, Officer A had learned that the Subject was a member of a gang.

The BOPC noted that during this incident, the Subject had been willing to back into a police vehicle and drive recklessly to avoid apprehension for what started as a parking violation. The BOPC also noted that before the Subject fled, Officer A had heard the "distinct" sound of a handgun slide "racking." The sound, combined with his/her knowledge of the Subject, led Officer A to believe he was armed with a handgun. The BOPC noted that when the Subject fled on foot, Officer A saw a handgun in his right hand. Because the Subject had ostensibly racked the slide and had not left the handgun in his vehicle when he fled on foot, Officer A believed the situation could escalate to one involving the use of deadly force.

The BOPC noted that as Officer A entered the driveway, he/she observed the Subject pointing the handgun back in his/her direction while running forward. The BOPC also noted that per the FID investigation, DICVS footage depicted the Subject's right arm extended back toward Officer A. The BOPC further noted that when the Subject swung the handgun in Officer B's direction, Officer B was entering the driveway as the Subject ran through it, toward the adjacent property. Believing that the Subject was going to shoot him/her and his/her partner, Officer A discharged a single round at the Subject's center mass, specifically his back, from approximately 28 feet, to stop what he/she believed was a deadly threat.

The BOPC noted that Officer A's round struck the Subject's back as he was running toward the adjacent property. The BOPC also noted that when Officer A decided to discharge his/her service pistol, the Subject's firearm had been pointed back at him/her and was swinging toward Officer B in a "fluid" motion. Per the FID investigation, 1.640 seconds elapsed between the time DICVS footage depicted the Subject's right arm extended back toward Officer A and when Officer A discharged his/her round. The BOPC noted that 1.640 seconds was the time it took Officer A to process, decide, and react to the threat.

Based on his actions, the BOPC opined that the Subject was willing to do whatever he needed to avoid apprehension. While the Subject was running from his/her direction when Officer A discharged his/her service pistol, the BOPC noted that police officers have been shot and killed by suspects firing backward. The fact that the Subject took the handgun with him indicated his intent to point it, if not shoot it. The BOPC opined that when Officer A discharged his/her service pistol, it was reasonable for him/her to believe the Subject was going to shoot at him/her or his/her partner, as the Subject fled.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably

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

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