

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

**OFFICER-INVOLVED SHOOTING – 034-21**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Mission	6/28/21		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	3 years, 10 months
Officer C	14 years, 5 months
Officer D	1 year, 4 months

**Reason for Police Contact**

Officers pursued the Subject after he failed to yield for a traffic stop. After being involved in a single-car accident, the Subject exited his vehicle armed with a replica semi-automatic pistol. The Subject refused to drop the replica pistol and pointed it at the officers, which resulted in an Officer-Involved Shooting (OIS).

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Male, 26 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 5/24/22.

## **Incident Summary**

On Monday, June 28, 2021, uniformed Police Officers A and B were assigned to work together. At their start of watch, officers conducted a vehicle equipment check, which included a digital in-car video system (DICVS), siren, and light bar check. This was the first time the officers were assigned to work together, and they did not discuss tactics prior to their deployment. According to both officers, after roll call, they were immediately deployed to relieve morning watch officers at a homicide scene. After clearing from the homicide scene, they handled an attempt suicide call at a residence, which included a follow-up to the hospital.

According to Officer A, after leaving the hospital from their previous radio call, he/she was driving in a high crime area. At approximately 0952 hours, and as seen on their DICVS, officers were driving north when Officer A observed the subject vehicle with tinted windows driving west. Officer A began to follow the car. Officer A observed the subject vehicle traveling at a high rate of speed as it initiated a right turn, causing the vehicle to sway. According to Officer A, this maneuver caught his/her attention. Officer A continued to follow the subject vehicle as it drove north to an intersection controlled by four-way stop signs. According to Officer A, the subject vehicle rolled through the stop and continued north. Officer B utilized the Mobile Digital Computer (MDC) and queried the license plate, which returned with no wants or warrants. The subject vehicle negotiated a right hand turn without using its turn signal and was now traveling east. At this point, the officers decided to conduct a traffic stop for the violations they observed. Officer A activated his/her emergency lights and chirped his/her siren as the subject vehicle approached a red light.

When the light turned green, Officer A chirped his/her siren, as the subject vehicle accelerated and continued east. According to Officer A, he/she estimated the subject vehicle's speed at approximately 70 miles per hour (MPH). Officer A added that the subject vehicle swayed as it maneuvered around vehicles and almost lost control. According to the officers, they only had traffic violations and they believed if they continued to follow the car, it could result in a traffic accident or pose a danger to pedestrians. Officer A de-activated his/her emergency equipment, turned off his/her BWV, DICVS camera and did not continue to follow the subject vehicle.

Approximately three minutes later at approximately 0958 hours, Officers A and B were driving east when they observed the same vehicle. As the officers drove past the subject vehicle, it turned west at a high rate of speed. Officer A negotiated a U-turn and began to follow the vehicle. According to Officer A, the subject vehicle appeared to be driving recklessly as it failed to stop for a red light when it made a right turn.

According to Officer A, as the subject vehicle approached the intersection at a high rate of speed, it almost collided with a vehicle stopped at the red light. Also, the subject vehicle's passenger side tires struck the north curb as it negotiated a right-hand turn. The subject vehicle continued north at a high rate of speed and Officer A stated that the vehicle was driving recklessly.

Officers continued north and as they approached an intersection, the subject vehicle was stopped and waiting to make a right-hand turn. The subject vehicle turned right and continued east followed by the officers. Officer A activated his/her emergency lights and siren. At 0958:02 hours, Officer B broadcast that the officers were in pursuit of a reckless driver.

The subject vehicle entered the northbound freeway on-ramp and at 0958:58 hours, Officer B requested the assistance of a helicopter. At 0959:07 hours, the helicopter acknowledged the request.

After entering the freeway, the subject vehicle quickly merged into heavy moving traffic. The officers merged several lanes over in an effort to catch up. The subject vehicle only stayed on the freeway for one exit, a distance of approximately 0.5 miles and got off at the next exit. The officers observed the subject vehicle exiting the freeway and they merged back over to exit. According to Officer B, he/she momentarily lost sight of the subject vehicle, when he/she suddenly observed that it had left the roadway and came to rest on a dirt and grass shoulder area inside the semi-circular off-ramp. At approximately 0959:21 hours the officers came to a stop on the off-ramp, turned off their overhead lights and siren and exited their vehicle.

According to Officer A, in his/her experience with pursuits that end in a traffic collision, the subjects usually run. Officer A observed the subject vehicle's airbags had deployed and his/her thought process was to clear the vehicle and set up a perimeter. Officer A did not immediately observe the Subject when he/she stopped his police vehicle on the right shoulder of the off-ramp, adjacent to the subject vehicle.

According to Officer A's BWV, he/she placed the vehicle in park, turned off the vehicle, and left the keys in the ignition as he/she exited the driver's door. According to Officer A, he/she observed the Subject outside of the subject vehicle and armed with a black semi-automatic pistol.

Believing there was an imminent threat to his/her life, Officer A unholstered his/her duty pistol, quickly exited and moved to his/her left, around the open door while utilizing the front of the police vehicle as cover. Officer A held his/her pistol with a two-handed grip, pointed toward the Subject. Officer A immediately began communicating with the Subject and ordering him to drop his pistol. According to Officer A's BWV, at 0959:25 hours, the Subject faced the officers with a black pistol in his right hand as he stood near the rear of the subject vehicle, which was facing north.

Due to the Subject being armed, and also to protect him/herself and his/her partner, Officer B unholstered his/her pistol.

At 0959:26 hours, Officer A broadcast that the Subject had a gun. Simultaneously, Officer B had exited and was standing behind his ballistic door with his/her pistol drawn.

Officer B moved to his/her right and around the rear of the police vehicle and stood behind the trunk area. Officer A repositioned to his/her right and stood next to Officer B at the rear of the police vehicle as he/she continued to communicate with the Subject. At one point, Officer B asked where they were. Simultaneously, according to Officer A, the Subject turned and walked to the driver's side of the subject vehicle, retrieved a cellphone from inside, and stated he was going to call his "girl." Officer B observed the Subject holding the pistol in his right hand and the cell phone in his left hand. Officer B believed the Subject was either FaceTiming with his girlfriend or recording the officers with the cellphone.

Officer A continued to communicate with the Subject, pleading with him to drop the gun. According to Officer A, at one point, he/she told the Subject he/she did not want to shoot him.

According to Officer B's BWV, at 1000:03 hours, Officer B stood behind the center portion of the police vehicle when he/she removed his/her cell phone from his/her left shirt pocket with his/her left hand and utilized his/her cell phone's map application to determine his/her exact location. Officer B manipulated the phone with his/her left hand as he/she held his/her pistol with his/her right hand.

At 1000:44 hours, Officer A was heard on his BWV stating that if he (the Subject) put his gun up they (Officers A and B) were going to shoot him.

At 1000:46 hours, Air Support Division (ASD) broadcast they were overhead on the call.

At approximately 1001:00 hours, Officer A's BWV depicted Witnesses A, B, and C stopping on the off-ramp. Witness B was driving a vehicle with Witness A as his/her rear passenger and Witness C was driving alone in his/her SUV. Both vehicles' arrival could be seen in the reflection on Officer A's police vehicle.

Officer D was a probationary police officer and Officer C was his/her training officer. According to Officer D, he/she and Officer C had been partners for the past two deployment periods (DP). During their time working together, and prior to their start of watch, officers regularly discussed tactics, policy, equipment, contact and cover roles.

Both officers activated their BWV cameras as Officer D responded with emergency lights and siren (Code-3), and according to Officer C, he/she did not broadcast their response because he/she did not want to "tie up" the frequency or interfere with the primary unit from broadcasting important information.

According to Officer D's BWV, at approximately 1002 hours, Officer D exited the northbound off-ramp, removed his/her seat belt, and drove to the left of two civilian vehicles, which had stopped near the top of the off-ramp. Officer C described seeing the subject vehicle in the dirt area to the right of the off-ramp with collision damage and the Subject standing near his front driver's door, holding a pistol. Officer C communicated with his/her partner that the Subject was armed. Officer D observed two

officers with their guns drawn and the Subject holding a black and silver handgun in his right hand. Officer C directed his/her partner to park the police vehicle facing the Subject in order to provide cover.

According to Officer D, he/she exited the police vehicle and unholstered his/her pistol because he/she believed the situation could escalate to one involving the use of deadly force. Officer D, a left-handed shooter, positioned him/herself just outside the open driver's door, between the open door and the A-frame of the police vehicle. Officer D held his/her pistol with a two-handed grip and pointed toward the Subject.

According to Officer C, based on the pursuit, seeing the subject armed with gun, and the distance between him/herself and the subject, Officer C felt that the rifle would be more effective than his/her handgun. Prior to exiting the police vehicle, Officer C was seen on his/her BWV activating the back-hatch release. After exiting his/her vehicle, Officer C went to the rear, removed his/her unloaded rifle from the gun bag, retrieved and loaded a 30-round magazine into the magazine well. Officer C charged the rifle and conducted a chamber to check. Officer C held his/her rifle at a low-ready position as he/she deployed him/herself on the left edge of the open driver's door. Officer C utilized the edge of the door to stabilize his/her right arm and took a barricade position. Officer C described his/her background as an open field with no vehicle or pedestrian traffic.

According to Officer A, he/she was able to see peripherally that additional units had begun to arrive at scene, but he/she remained focused on the Subject. Officer A went on to describe that he/she was at a higher elevation looking down at the Subject. Officer A utilized the trunk of the police vehicle as cover and a stable shooting platform. According to Officer A, there were no homes or pedestrian traffic in the background and behind the subject vehicle there was a large grass area.

At 1002:44 hours, Officer D's BWV depicted the Subject standing at the rear of the subject vehicle and tossing what appeared to be his cell phone onto the trunk with his left hand. The Subject took three steps toward Officers A and B while raising his right arm and pointing his pistol in their direction.

Officer A described the Subject raising his right hand that held the handgun and charging toward him/her. Officer A aimed at Subject's center body mass and fired his/her first round. According to Officer A, his/her target was the Subject's center body mass and he/she continually assessed between each round, and he/she believed the Subject was standing and pointing his weapon at him/her while he/she fired each round. Officer A was not sure if the Subject fired his weapon at him/her, but he/she did describe hearing other gunshots and seeing smoke.

After Officer A fired his/her final round, he/she described the Subject as being on the ground, but still moving. Officer A described the Subject as face-down.

After telling Officer D to broadcast their location, Officer C observed the Subject walk out from behind the subject vehicle with the pistol in his right hand.

According to Officer C, he/she aimed at the Subject's center body mass. Officer C fired his/her first round from an approximate distance of sixty-two feet. According to Officer C, he/she assessed and observed the Subject still advancing toward Officers A and B. Officer C was not sure if he/she missed or the shot was ineffective, so he/she fired a second shot.

After firing his/her second shot, Officer C assessed and observed the Subject was no longer standing. According to Officer C, the Subject fell face-down with his head facing toward Officer A and B.

According to Officer D, as he/she began to broadcast, he/she observed the Subject quickly walk up the hill, take a shooting stance and point his gun at Officers A and B.

According to Officer D's BWV, at 1002:45 hours, Officer D held his/her radio in his/her right hand as he/she held his/her pistol with his/her left hand. At 1002:47 hours, Officer D held his/her radio in his/her right hand near his/her mouth and held his/her pistol in his/her left hand when he/she fired his/her first round. Officer D began to move backward and fired his/her second and third round with a one-handed grip. Officer D continued to move backward as he/she dropped his/her radio to the ground and obtained a two-handed grip on his/her pistol when he/she fired his/her fourth, fifth and sixth rounds. After Officer D fired his/her final round, Officer C communicated to him/her to regain his/her original position by the door. Officer D held his/her pistol at a low-ready position and moved forward, behind the driver's door.

According to Officer D, he/she aimed at the Subject's center body mass for all his/her rounds as he/she assessed between shots. Officer D observed the Subject continue to advance toward Officers A and B with his gun still pointing at them.

While firing his/her shots, Officer D moved backwards from the driver door, where he/she fired his/her first shot, to the rear of the police vehicle, where he/she fired his/her sixth shot. According to Officer D, in the Academy, he/she was taught to create distance and keep cover. Officer D added that throughout the OIS, he/she was behind cover and always had a clear sight of the armed Subject with every shot he/she fired.

According to Officer B, just prior to the gunshots, he/she observed the Subject holding the pistol in his right hand and Officer B believed the Subject dropped the cell phone as he began walking toward the officers with his right arm coming upward.

According to Officer B's BWV, at 1002:45 hours, Officer B told the Subject to drop the gun. Just then, gunshots were fired as Officer B stepped back and ducked down behind the B-pillar of the police vehicle. As Officer B stood back up, he/she noticed the Subject was falling to the ground. According to Officer B, he/she believed the Subject was firing at them when he/she ducked down behind the police vehicle.

According to Officer C's BWV, after the Subject walked toward Officers A and B with his right arm fully extended and his pistol aimed at them, the Subject's body appeared to react to the gunshots. Just as Officer C fired his/her first round, the Subject's right arm appeared to bend at the elbow as his body began to rotate to his left toward Officers C and D. After Officer C fired his/her first round, the Subject fell to a seated position, facing the subject vehicle, with his back to Officers A and B. At this point, the Subject was seated and there appeared to be several impacts hitting the ground around him, causing dirt to billow around him. The billowing dirt and the sling from Officer C's rifle covered the Subject's actions after this point. It was at this time that Officer C fired his/her second round.

According to Witness C, he/she observed the subject vehicle in the ditch and he/she could see the air bags had been deployed. Witness C observed the Subject come out from behind the subject vehicle and throw something with his left hand. Witness C added that the Subject put his hands in the air and ran toward the officers.

According to Witness A, as he/she exited the off-ramp, he/she observed the subject vehicle in the ditch. Witness A observed the officers pointing their guns at the subject vehicle and yelling.

At approximately 1003 hours, Officer E broadcast that an OIS had just occurred and requested the Los Angeles Fire Department (LAFD) and a Rescue Ambulance (RA).

After the OIS, Sergeants A and B and Officers, F, G, H, I, J, K, L, M, N, and O responded to the help call and were involved in clearing the subject vehicle, handcuffing the Subject, and securing his weapon.

According to Officer C's BWV at 1003:10 hours, Officer C began to form a contact team with Officers as they arrived at scene and requested an officer to respond with a shield. Officer C, still armed with his/her rifle, was the designated cover officer, Officer J deployed the shield, Officer O deployed the bean-bag shotgun, and Officers D and K were tasked with handcuffing the Subject.

At 1003:15 hours, Officers K and J arrived at scene and parked behind the primary unit's vehicle. Officer K exited his/her vehicle and unholstered his/her pistol. According to Officer K, the situation was tactical, which could lead to deadly force. At approximately 1004 hours, Officer J removed the shield from the rear of the police vehicle and unholstered his/her pistol due to the Subject being possibly armed and his/her belief that the situation could lead to deadly force.

At approximately 1006 hours, Sergeant A arrived at scene and declared him/herself to be incident commander.

At 1008 hours, Officers A and B were relieved from the tactical portion of taking the Subject into custody. According to Officer B's BWV Officer A holstered his/her pistol as both officers moved away from the cover of the police vehicle and together, walked east

across the off-ramp lanes. Officer B unholstered his/her pistol, removed the seated magazine, re-inserted the magazine, and then holstered. Simultaneously, Officer A removed the seated magazine from his/her pistol, looked at it, and then re-inserted it back into his/her pistol. Neither officer removed or added rounds to their magazines. According Officer A, he/she was checking his/her gear. Officer B stated that after seeing he/she had 17 rounds in the seated magazine, he/she was confident he/she did not fire his/her weapon.

According to Officer D's BWV, at approximately 1008 hours, Officer D was assigned to the arrest team and replaced as a cover officer. Officer D holstered his/her pistol as he/she moved to join the arrest team. At 1011:11 hours, Officer D unholstered his/her pistol after being given the assignment to clear the vehicle for additional subjects.

According to Officer C's BWV, at 1011:40 hours the arrest team deployed from the north and cleared the subject vehicle. Officer C then directed Officers D and K to holster their pistols and handcuff the Subject. Officer J communicated that he/she would cover the trunk while officers handcuffed the Subject. Officer D holstered his/her pistol and unbuttoned his/her right handcuff case. Officer D moved first, followed by Officer K, toward the Subject, who was lying in a supine position with his head facing east and his feet facing west. The Subject's right hand was near his face and his left hand was underneath his body, near his stomach. Officer D approached and positioned him/herself on the Subject's right side, taking control of the Subject's right arm, and placed it behind his back. Officer K approached and positioned him/herself on the Subject's left side, taking control of the Subject's left arm and placed it behind his back. Officer D removed a set of handcuffs from his/her right handcuff case and held the cuffs by the chain with a pistol grip as he/she handcuffed the Subject's right wrist, then the Subject's left wrist, completing the handcuffing process.

According to Officer K's BWV, the Subject did not appear to be conscious. Officer D rolled the Subject to his right side and searched him. Officer D moved the Subject into a seated position before officers moved him to the east in order to have a flatter surface to begin chest compressions.

According to Officer K's BWV, at 1013:43 hours, Officer K began chest compressions on the Subject. At 1014:33 hours, Officer F relieved Officer K and continued chest compressions until 1016:32 hours, when the Los Angeles Fire Department (LAFD) RA arrived at scene and relieved Officer F.

At approximately 1022 hours, the RA transported the Subject to a local hospital. The Subject was subsequently pronounced dead.



## **BWV and DICVS Policy Compliance**

<b>NAME</b>	<b>TIMELY BWV ACTIVATION</b>	<b>FULL 2-MINUTE BUFFER</b>	<b>BWV RECORDING OF ENTIRE INCIDENT</b>	<b>TIMELY DICVS ACTIVATION</b>	<b>DICVS RECORDING OF ENTIRE INCIDENT</b>
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	No	No
Officer D	Yes	Yes	Yes	No	No

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

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

The BOPC found Officer A, B, C, and D's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officer A, C, and D'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, 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 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** – Based on Officer A’s transcript, he/she did not recall if he/she and Officer B had discussed tactics and roles at the start of their shift; this was their first shift as partners. Per Officer B, they did not discuss tactics at the start of their watch; they anticipated spending their shift at a homicide scene. According to Officer A, immediately after leaving the homicide scene, they began their extra patrol, subsequently locating the subject vehicle. Per Officer A, he/she and Officer B did not have time to create a tactical plan or discuss their tactical roles. The BOPC would have preferred that Officers A and B had discussed tactics, such as contact/cover roles, less-lethal options, and vehicle pursuits.

Officers C and D frequently discussed tactics such as lethal and less-lethal roles, the utilization of cover, ballistic shields, and the necessity of pre-planning. Officers C and D also discussed various tactical scenarios, the importance of de-escalation, and the PATROL acronym. On the day of the incident, Officer C was the designated cover officer while Officer D was the contact officer. After the OIS, Officer C formed a tactical team to clear the suspect vehicle and apprehend the Subject. Officer C created a tactical plan and received approval from Sergeant A to enact it.

**Assessment** – Observing the Subject holding the handgun, officers assessed the need to seek cover while ordering him to drop the gun. While the Subject’s actions prompted the OIS, Officers A, C, and D, assessed as they discharged their rounds, mitigating the use of lethal force. Hearing a gunshot, Officer B thought the Subject had shot at him/her. Officer B ducked and then stood. Assessing, Officer B determined that lethal force was no longer needed.

**Time** – During the incident, Officers A, B, C, and D used cover and distance to create time. While the BOPC would have preferred that Officer A had not stopped adjacent to the subject vehicle, the BOPC noted that Officer A and Officer B did not prematurely approach the Subject on foot. While the officers gave the Subject many opportunities to drop his handgun, the Subject’s actions limited their ability to use time as a de-escalation technique. After the OIS, to mitigate the need for additional force, Officer C

ensured that officers ceased firing, waited for additional resources, formed a tactical plan, and moved in a controlled manner.

**Redeployment and/or Containment** – At the termination of the pursuit, Officer A exited and immediately deployed to the driver’s side area of his/her police vehicle. Initially, Officer A used the engine block, redeploying to the police vehicle’s A-pillar for better cover. Exiting the police vehicle’s passenger side, Officer B redeployed to the driver’s side for cover. After the OIS, Officer C directed Officer D to redeploy with him/her to Officers A and B’s police vehicle. After redeploying, Officer C had a better view of the Subject. Officers held their positions until additional resources arrived. The BOPC noted Officers A and B’s decision to take cover behind the A and B pillars of their police vehicle. Alternatively, the officers could have used the engine block for cover.

**Other Resources** – When the Subject fled, Officer B advised Communications Division (CD) that officers were in pursuit, prompting the response of additional units, a supervisor, and the Air Support Division (ASD). Responding to the pursuit, Sergeant A requested ASD’s estimated time of arrival. Observing the Subject armed with a handgun, Officers A and B attempted to broadcast an officer help call. After the OIS, ASD requested a LAFD RA. Before approaching the Subject, Officer C and Sergeant A ensured that officers were equipped with lethal/less-lethal options and a ballistic shield.

**Lines of Communication** – Observing the Subject armed with a handgun, Officers A and B pleaded with him to drop the gun while attempting to establish rapport; the Subject refused to drop the gun. The Subject’s actions limited the officers’ ability to use lines of communication as a de-escalation tool. The BOPC noted Officer A’s repeated commands to “drop the gun!” Observing the Subject’s refusal, Officer B attempted to build rapport with the Subject. The BOPC would have preferred that only one officer at a time attempted to communicate with the Subject. The BOPC noted the importance of utilizing different methods of communication, such as bilingual commands.

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

### **1. Tactical Communication/Planning**

Based on Officer A’s transcript, he/she did not recall if he/she and Officer B had discussed tactics and roles at the start of their shift; this was their first shift as partners. Per Officer B, they did not discuss tactics at the start of their watch; they anticipated spending the shift at a homicide investigation. Officers A also did not recall what he/she and Officer B discussed after they discontinued following the subject vehicle before the pursuit. Also, Officers A and B did not discuss a plan before conducting a high-risk stop at the pursuit’s termination. During the events leading up to the OIS, there was no apparent communication/planning between Officers A and B. When asked for their location by Officer B, Officer A responded, “hold on, hold on.” The lack of clarity



regarding their roles caused Officers A and B to simultaneously broadcast help calls. Therefore, only portions of their broadcasts were transmitted.

The BOPC noted Officers A and B's lack of planning at the start of their shift and during this incident. The BOPC also noted that law enforcement contacts are often fluid and unpredictable, making it incumbent upon officers to develop, communicate, and attempt to adhere to a tactical plan. However, the BOPC further noted the rapid nature of the incident due to the Subject's actions. The BOPC also noted that Officers A and B's time to create a plan was limited as they had to immediately address a potentially deadly threat. While the BOPC would have preferred better planning, they opined that based on the totality of the circumstances, Officers A and B adapted to the dynamic situation.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officers A and B were a substantial deviation, with justification, from approved Department tactical training.

## **2. Tactical Vehicle Deployment**

At the termination of the vehicle pursuit, Officer A stopped his/her police vehicle adjacent to the subject vehicle. According to Officer A, the subject vehicle's airbags had deployed, blocking his/her view of the vehicle's interior. Officer A believed that the Subject had fled the subject vehicle on foot; in Officer A's experience, suspects usually ran when a pursuit ended in a traffic collision. While Officer A did not immediately observe the Subject when he/she stopped his/her police vehicle, he/she subsequently observed the Subject outside of the subject vehicle and armed with a handgun. Based on the police vehicle's position, the officers were unable to effectively use the ballistic door panels as cover, specifically Officer B, who was exposed to the Subject while exiting the passenger side. During the incident, Officer A moved to the front of the police vehicle and stood by the left front tire for approximately ten seconds before redeploying. While he/she had the engine block for cover, he/she appeared to be standing upright.

The BOPC noted that Officer A stopped the police vehicle in a disadvantageous position, near the subject vehicle, which initially provided Officer B little to no cover. The BOPC would have preferred that Officer A had stopped the police vehicle further back, facing the subject vehicle, or in the alternative, angled toward the subject vehicle. However, the BOPC also noted Officer A's statements regarding the vehicle deployment, specifically his/her belief that the Subject may have fled on foot. The BOPC further noted that the officers were unaware of the subject vehicle's position before exiting the freeway and that the passenger compartment was obscured by the airbags. Observing that the subject vehicle had left the roadway, Officer A immediately stopped the police vehicle. The BOPC opined that Officers A and B quickly addressed their

disadvantageous position and corrected the issue by using their vehicle's driver's side for cover.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officer A were a substantial deviation, with justification, from approved Department tactical training.

### **3. Basic Firearm Safety Rules**

According to Officer B, after exiting his/her police vehicle, he/she observed the Subject holding a handgun. While ordering the Subject to drop the handgun, Officer B unholstered his/her service pistol, inadvertently placing his/her finger on the trigger for approximately eight seconds.

The BOPC noted that Officer B was seated in the front passenger seat of his/her police vehicle. Upon coming to a stop at the termination of the pursuit, Officer B observed the subject vehicle had come to rest within the off-ramp. Officer B exited his/her police vehicle and observed the Subject standing outside of the subject vehicle holding a handgun. In response, Officer B immediately unholstered his/her service pistol. Raising his/her pistol in the Subject's direction, Officer B placed his/her right index finger on the trigger of his/her service pistol for approximately eight seconds. The BOPC also noted that during his/her interview with FID, Officer B recalled having his/her finger alongside the frame of his/her handgun.

The BOPC discussed the Subject's action when Officer B placed his/her finger on the trigger of his/her service pistol. While the Subject was holding a handgun, it was down by his side at that point, and he was approximately 25 feet away; the BOPC opined that the Subject's actions at that point may not have justified deadly force. Also, based on the BWV footage, the BOPC determined that Officer B placed his/her finger on the trigger before his/her sights were aligned on the Subject. Furthermore, when interviewed, Officer B indicated that his/her finger was along the frame. This indicated that Officer B inadvertently placed his/her finger on the trigger, increasing the potential for an unintentional discharge. Also, the BOPC noted that placing the finger on the trigger is generally not a preemptive movement but a fluid motion at the point when an officer decides to shoot. While the BOPC understood the dynamic nature of this incident, it opined that Officer B's action violated the basic firearm safety rules.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer B were a substantial deviation, without justification, from approved Department tactical training.

### **4. Situational Awareness**

Following Officers A and B's simultaneous attempts to broadcast an officer help call, CD broadcast an inaccurate location. Unsure of their location, Officer B

asked Officer A. Officer A responded, "hold on, hold on." According to Officer A, he/she knew their location but was focused on the Subject. To verify their location, Officer B used his/her left hand to access his/her cellular phone's mapping application. While doing so, Officer B continued to hold his/her service pistol in his/her right hand. Officer B then brought his/her right hand together with his/her left hand and utilized his/her left and right thumbs to manipulate the virtual map, muzzle pointed toward the Subject. Officer B then advised CD that officers were at the correct off-ramp.

According to Officer D, he/she was standing behind the driver's door and A-pillar of his/her police vehicle, holding his/her service pistol in his/her left hand and his/her police radio in his/her right hand. Officer D was completing a broadcast when he/she observed the Subject point his/her handgun at Officers A and B as he advanced on them. In defense of Officers A and B's lives, Officer D aimed at the Subject's center mass, discharging his/her service pistol as he/she began to walk backward, creating distance from the Subject. Observing the Subject continuing to advance at the officers, Officer D continued to discharge his/her service pistol as he/she walked backward to the rear of his/her police vehicle. As Officer D moved back, Officer C was still positioned behind the outer edge of their police vehicle driver's door. After Officer D discharged his/her sixth and final round, Officer C ordered him/her to hold his/her fire and return to the driver's door. According to Officer D, in the Academy, he/she was taught to create distance and maintain cover. Officer D added that throughout the OIS, he/she had a clear line of sight on the Subject.

In terms of Officers A and B, the BOPC would have preferred they had remained cognizant of/communicated their location. In this case, Officers A and B were in a vehicle pursuit where the Subject quickly exited the freeway, causing officers to lose sight as he attempted to negotiate the circular off-ramp. Exiting the freeway, the officers unexpectedly came upon the subject vehicle, unaware that it had left the roadway. Due to the dynamic nature of the incident, Officer B was unsure of his/her location. While Officer A stated he/she was aware of their location, he/she was hyper-focused on the Subject and unable to communicate it to Officer B. As such responding units were initially advised that the officers were at a different location. Despite these challenges, the BOPC opined that Officer B used available resources to determine and update their location before the first backup unit arrived. The BOPC also noted that the officers were close to the previously broadcasted location and based on the topography, would have been quickly located by ASD. While the BOPC would have preferred that Officer A had communicated the officers' location, it noted that his/her focus was on the imminent deadly threat posed by the Subject.

While the BOPC understood that Smartphones have become a common resource in everyday life, the BOPC was concerned by the level of reliance officers are placing on these devices for navigation. Officers are expected to remain cognizant of their location at all times, especially during tactical situations.

Here, when the pursuit terminated, Officer B was unsure of his/her location. Instead of advising CD of his general location, Officer B elected to use his/her cellular phone's mapping application. In doing so, Officer B shifted his/her attention from an armed suspect to his/her phone. Not only did Officer B fail to communicate his/her actions to his/her partner, but he/she also manipulated his/her phone while holding his/her service pistol. While the BOPC appreciated Officer B's efforts to determine his/her exact location, the BOPC was concerned that Officer B's reliance on technology led to his/her lack of situational awareness.

In terms of Officer D, the BOPC noted his/her rationale for redeploying to the rear of the police vehicle. Also, the BOPC opined that Officer C's patrol rifle discharging near him/her may have subconsciously caused Officer D to move back. While the BOPC understood why he/she moved back, it was critical of Officer D's decision - from a tactical standpoint - to discharge his/her service pistol as he/she did so. With Officer C remaining by the driver's door, the BOPC noted the potential for tragedy had Officer D lost his/her footing or discharged an errant round. The BOPC also noted that Officer D initially discharged his/her service pistol using a one-handed shooting stance and that one of his/her rounds struck the police vehicle's driver's door frame. While the rear of the police vehicle can provide cover, here, the BOPC would have preferred that Officer D had remained at the driver's door, behind the ballistic panel, or ceased firing as he/she moved backward.

The BOPC was concerned by Officer D's decision to continue discharging his/her service pistol as he/she walked backward; however, the BOPC supported his/her efforts to redeploy. Officers are taught to use distance and cover to obtain a tactical advantage. In a situation where an officer feels his/her safety is compromised, it would be reasonable for that officer to safely redeploy from one position of cover to another. Here, Officer D simply did what he/she was trained to do, create distance from an armed suspect and maintain cover. While the ballistic panel is an excellent source of cover, the BOPC understood why Officer D would feel the rear of a police SUV, based on its profile, would be superior.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officers A and D were a substantial deviation, with justification, from approved Department tactical training. Also, the BOPC determined that the tactics employed by Officer B were a substantial deviation, without justification, from approved Department tactical training.

## **5. Patrol Rifle Protocols**

Per BWV footage, Officer C disengaged his/her patrol rifle's safety selector approximately 25 seconds before discharging his/her rounds. Per BWV footage, Officer C's safety was disengaged as he/she redeployed to Officer A and B's police vehicle.

The BOPC noted that per the Department's Rifle Manual an officer's finger simultaneously disengages the safety as the index finger goes to the trigger. As noted previously, placing the finger on the trigger is generally not a preemptive movement but a fluid motion at the point when an officer decides to shoot. This is done to prevent unintentionally discharging a firearm. The BOPC's expectation is that disengaging the rifle's safety is part of the same fluid motion at the point when an officer decides to shoot. At the point when Officer C disengaged his/her safety, he/she had not decided to shoot. As such, Officer C prematurely disengaged his/her rifle's safety.

The BOPC also noted that per the Department's Rifle Manual, when an officer moves from on target to a low-ready position, the selector switch is moved from fire to safe. Also, per the manual, before moving with the rifle, an officer must engage the safety. As indicated above, Officer C's safety was disengaged as he/she redeployed to Officer A and B's police vehicle. Based on the BWV footage, Officer C was not on target, nor was he/she shooting on the move as he/she redeployed; therefore, his/her safety should have been engaged.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer C were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
  - **Fire Control/Fire Discipline** - The FID investigation revealed that Officer A discharged twelve rounds in three seconds. The investigation also revealed that Officer D discharged six rounds in approximately 2.5 seconds. As officers are responsible for every round they discharge, they must balance speed with accuracy.
  - **Profanity** - While ordering the Subject to drop the handgun, Officer A used profanity. While not a best practice, the profanity was not derogatory or excessive and was intended to gain compliance.
  - **Non-Medical Face Coverings** - Officers A, B, C, and D were not wearing non-Medical Face Coverings during the incident as directed by the Chief in May, 2020.
- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC determined that Officer A and D's actions were a substantial deviation, with justification, from approved Department tactical training. The BOPC also determined that Officer B's actions were a substantial deviation, without justification, from approved Department tactical training, requiring a finding of Administrative Disapproval. Also, the BOPC determined that Officer C's actions were a substantial deviation, without justification, from approved Department tactical training, requiring a finding of Administrative Disapproval.

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

## **B. Drawing and Exhibiting**

- **Officer A**

According to Officer A, he/she was exiting the police vehicle to conduct a high-risk stop when he/she observed the Subject standing outside the subject vehicle holding a black semi-automatic handgun with a chrome ejection port; Officer A estimated he/she was 25 to 30 feet from the Subject. Believing that the Subject posed an imminent threat to his/her life, Officer A unholstered his/her service pistol while using the driver's side of the police vehicle for cover.

- **Officer B**

According to Officer B, after exiting his police vehicle, he/she observed the Subject holding a handgun. While ordering Subject to drop the handgun, Officer B unholstered his/her service pistol.

- **Officers C and D**

According to Officer C, he/she observed the Subject standing near the subject vehicle holding a handgun. Based on his/her distance from the Subject, Officer C felt that his/her patrol rifle would be more effective than his/her handgun. Officer C retrieved his/her rifle, positioning him/herself on the left edge of the police vehicle's open driver's door, near Officer D. According to Officer D, he/she too observed the Subject holding a handgun in his/her right hand, muzzle down. Believing the situation could escalate to the point where deadly force may be justified, Officer D unholstered his/her service pistol.

- **Officer D - Second Occurrence**

According to Officer D, after the OIS occurred, a tactical plan was formulated to clear the subject vehicle for additional suspects and apprehend the Subject. Due to the

possibility of a deadly threat inside the subject vehicle, Officer D unholstered his/her service pistol before approaching the vehicle with the tactical team.

The BOPC evaluated Officers A, B, C, and D's drawing and exhibiting of their firearms. In terms of Officers A and B, the BOPC noted the dynamic nature of this incident. The officers observed the Subject driving recklessly. When they attempted to stop the Subject, he led them on a pursuit, ultimately losing control of his vehicle. Instead of fleeing on foot, the Subject emerged from his vehicle armed with a handgun and walked toward the officers. Despite repeated orders, the Subject refused to drop his handgun. Based on the Subject's actions, the BOPC opined that it was reasonable for Officers A and B to believe the situation may escalate to the point where deadly force may be necessary.

In terms of Officers C and D, the BOPC noted that they arrived at the termination of the pursuit and observed Officers A and B taking cover behind their police vehicle. Officers C and D also observed the Subject holding a handgun, refusing the officers' orders to drop it. Based on the Subject's actions, the BOPC opined that it was reasonable for Officers C and D to believe the situation may escalate to the point where deadly force may be necessary.

In terms of Officer D's second drawing and exhibiting of his/her firearm, the BOPC noted that he/she was designated as the arrest team's lethal cover officer. As the Subject's condition was unknown, his handgun was outstanding, and the subject vehicle had not been cleared, the BOPC opined that it was reasonable for Officer D to believe the situation may escalate to the point where deadly force may be necessary.

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

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

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

### **Background**

The background consisted of a large field that bordered the off-ramp. Officer C described his/her background as an open field with no vehicle or pedestrian traffic. According to Officer A, there were no homes or pedestrian traffic in the background.

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

Despite repeated commands, the Subject refused to drop his handgun. Fearing that the Subject was going to shoot him/her in the head, Officer A leaned on the trunk of his/her police vehicle, using it to stabilize his/her shooting platform. The Subject appeared to use the FaceTime application on his cellular phone, then threw it on the subject vehicle's trunk. The Subject then appeared to take a deep breath and "charge" toward Officers A and B while raising his handgun toward them. Observing the Subject pointing his handgun directly at him, Officer A believed he/she was going to die. In response, Officer A aimed at the Subject's center mass, discharging his/her service pistol. Assessing, Officer A observed the Subject continuing to point his handgun at him/her. In response, Officer A continued to discharge his/her service pistol, assessing after each round. According to Officer A, he/she ceased firing when the Subject was no longer a threat. Officer A believed that he/she did not fire at the Subject while he was on the ground. While Officer A was not sure if the Subject fired his handgun, he/she heard other gunshots and saw smoke.

The BOPC assessed the proportionality, reasonableness, and necessity of Officer A's lethal use of force. The BOPC noted that Officer A observed Subject holding a handgun while standing at the rear of the subject vehicle. Despite repeated commands to drop his handgun, the Subject appeared to take a deep breath and "charge" toward Officers A and B while raising his handgun toward them. While investigators would learn that the Subject was armed with an air pistol, the BOPC opined that it was reasonable for Officer A to believe it was a firearm as it was designed to look like a real handgun. Based on the Subject's actions, the BOPC also opined that it was reasonable for Officer A to believe the Subject presented an imminent threat of serious bodily injury or death to both Officers A and B.

In terms of Officer A's rate of fire, the BOPC noted that he/she discharged twelve rounds in approximately three seconds (approximately four rounds per second). While the BOPC was concerned by Officer A's rate of fire, they noted his/her statements to FID, specifically that he/she is "always assessing" when discharging his/her service pistol. The BOPC also noted that Officer A ceased firing when he/she determined the Subject was no longer a deadly threat. The BOPC further noted Officer A's belief that he/she ceased firing when the Subject was on the ground. All of which indicated that Officer A was not indiscriminately firing his/her service pistol.

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 necessary, proportional, and objectively reasonable.

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

- **Officer C** – (rifle, two rounds)

According to Officer C, he/she heard Officers A and B ordering the Subject to drop the handgun. The Subject appeared to shake his head as if indicating he would not



comply. Due to Officers A and B's proximity to the Subject, Officer C feared for their safety. Observing the Subject walk toward them, Officer C believed Officers A and B would be shot. In response, Officer C aligned his/her patrol rifle's sights on the Subject's center mass, discharging two rounds at the Subject as he approached the officers. Officer C estimated that he/she was 30 to 35 yards from the Subject. According to Officer C, he/she was focusing on the front sight post of his/her patrol rifle when he/she discharged his/her rounds; according to Officer C, he/she assessed as he/she discharged his/her rounds.

The BOPC assessed the proportionality, reasonableness, and necessity of Officer C's lethal use of force. The BOPC noted that when he/she arrived on the scene, Officer C observed the Subject holding a handgun; despite the officers' orders, the Subject had refused to drop it. Observing the Subject "speed walk" toward Officers A and B while holding the handgun, Officer C believed he presented a deadly threat to the officers. To protect Officers A and B from serious bodily injury or death, Officer C discharged his/her patrol rifle at the Subject. Based on the Subject's actions, the BOPC opined that it was reasonable for Officer C to believe the Subject posed an imminent threat of death or serious bodily injury.

The BOPC noted that during his/her interview with FID, Officer C stated that he/she did not see the Subject point the handgun at Officers A and B. However, the BOPC also noted that Officer C had observed the Subject armed with a handgun and had seen the Subject's arms move as he rapidly approached the officers. The BOPC also noted that when the Subject moved towards the officers, Officer C focused on his/her front sight post which "blurred out" the background. The BOPC opined that Officer C did not see the Subject raise the handgun because his/her field of view narrowed as he/she focused on the front sight and the Subject's center mass. While it appeared that Officer C discharged his/her second round less than one second after the Subject fell, this was an indication that Officer C was assessing between rounds. The BOPC opined that between the time Officer C determined the need to discharge a second round and the point when he/she pulled the trigger, the Subject had fallen to the ground.

The BOPC noted that Officer C did not see the Subject point the handgun toward Officers A and B. While this was concerning, it does not invalidate Officer C's use of lethal force. As noted, Officer C observed the Subject standing approximately 30 feet in front of Officers A and B, holding a handgun. Despite repeated commands from uniformed police officers, the Subject was nonresponsive and refused to drop his handgun. The Subject then hurriedly approached Officers A and B. At this point, Officer C's focus shifted to his/her rifle's sights, limiting his/her field of view. Based on his/her focus and sight picture, it is reasonable that Officer C did not see the Subject point the handgun toward the officers. Based on his/her observations of the events leading up to the OIS, when Officer C discharged his/her patrol rifle, he/she reasonably believed that the Subject had the present ability, opportunity, and apparent intent to immediately kill or seriously injure Officers A and B. Given these facts, Officer C reasonably believed that the Subject presented a valid lethal threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C in the same situation, would reasonably believe that the use of deadly force was necessary, proportional, and objectively reasonable.

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

- **Officer D – (pistol, six rounds)**

According to Officer D, he/she was standing behind the driver's door and A-pillar of his/her police vehicle, holding his/her service pistol in his/her left hand and his/her police radio in his/her right hand. Officer D was completing a broadcast when he/she observed the Subject point his handgun at Officers A and B as he advanced on them. In defense of Officers A and B's lives, Officer D aimed at the Subject's center mass, discharging his/her service pistol as he/she began to walk backward, creating distance from the Subject. Observing the Subject continuing to advance at the officers, Officer D continued to discharge his/her service pistol as he/she walked backward to the rear of his/her police vehicle, assessing after each round.

The BOPC assessed the proportionality, reasonableness, and necessity of Officer D's lethal use of force. The BOPC noted that when he/she arrived on the scene, Officer D observed the Subject holding a handgun; despite the officers' orders, the Subject had refused to drop it. Observing the Subject raise his handgun toward Officers A and B, Officer D believed he presented a deadly threat to the officers. To protect Officers A and B's lives, Officer D discharged his/her service pistol at the Subject. Based on the Subject's actions, the BOPC opined that it was reasonable for Officer D to believe the Subject posed an imminent threat of death or serious bodily injury to him/her and his/her partners.

In terms of the number of rounds he/she discharged, the BOPC noted that according to Officer D, he/she continually assessed as he/she fired. Assessing, Officer D observed the Subject continuing to advance on Officers A and B with his handgun pointed at them. The BOPC noted that according to Officer D, he/she ceased firing when he/she observed the Subject fall to the ground. The BOPC opined that it was reasonable for Officer D to believe the Subject continued to present an imminent deadly threat as he/she discharged his/her rounds.

In terms of Officer D discharging his/her service pistol as he/she moved backward, the BOPC was critical of his/her tactics. However, the BOPC did not feel that Officer D's tactics negated the proportionality, objective reasonableness, or necessity of his/her use of lethal force. Also, the BOPC noted that according to Officer D, as he/she moved back, he/she maintained a line of sight on the Subject as he/she assessed his/her rounds.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officer D, in the same situation, would reasonably believe that the use of deadly force was necessary, proportional, and objectively reasonable.

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