

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

**OFFICER-INVOLVED SHOOTING – 004-21**

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

West Valley	1/29/21		
-------------	---------	--	--

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
--	--------------------------

Officer A	5 years, 4 months
Officer B	8 years

**Total Involved Officer(s)**

Officers responded to a radio call of an Assault with a Deadly Weapon (ADW) “suspect there now.” The Subject was tracked to a nearby grocery store parking lot. When confronted by the officers, the Subject pointed a firearm at them, resulting in an Officer-Involved Shooting (OIS).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
-------------------	---------------------	--------------------	--------------------

Male, 42 years of age.

**Board of Police Commissioners’ Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the 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 December 7, 2021.

## **Incident Summary**

### **Background**

On October 30, 2020, the Subject was involved in a physical altercation with Witness A. The Subject punched him multiple times in the face. When Victim A attempted to intervene, the Subject struck her with a metal belt buckle, leaving visible injuries. As a result of that incident, a radio call was generated, and a Foothill patrol unit responded to investigate. The Subject was ultimately arrested and booked for 273.5(a) PC, Domestic Violence with Corporal Injuries, and 242 PC, Battery. In addition to the above criminal charges, a Temporary Restraining Order (TRO), was issued against the Subject.

### **Investigative Summary**

On Wednesday, January 28, 2021, beginning at approximately 2305 hours, the Subject called Victim A on her cellular phone eight times, in violation of the TRO that had been issued against him. Victim A did not answer the Subject's calls.

On Thursday, January 29, 2021, between 0020-1107 hours, the Subject continued to call Victim A, registering 73 missed calls on her call log. The Subject also sent multiple threatening text messages to Victim A, one of which included pictures of a handgun.

At 1013 hours, the Subject made a ten-minute call threatening to drive to Victim B's residence, shoot her, everyone in the house, and the police. Witness B recorded the threatening phone call. The following is an excerpt from the first two minutes and 47 seconds of that ten-minute call:

"I'm not playing. I'm going to have a shootout with you and the cops. To me you're a big boss. And I'm not playing. I'm already halfway in the bottle of vodka. I'm going to drink it all and later on I'm gonna go and do what I have to do. Because you are the boss. I'll show you what a boss, when someone has a big mouth. I'm going to show you what a gangster does. I've already had enough. It's just you have to put it harder for me. I'm done with it. I'm going to shoot your [expletive], the cops and everybody. Send them (cops) right here. I ain't even playing. I'm with my [expletive] gun right here. I'm not playing. Send them. Tell them that I'm [expletive] harassing you. Do whatever you have to do me but today I'm going to your job, to you, and I'm going to shoot [expletive] because you guys think I'm playing. You think I'm playing. I already got enough and that's enough. At forty-two I had enough. I've had enough of your [expletive]. I'm going to shoot your ass. I'm not threatening you. I'm telling you what I'm going to do. So, you better call the cops and tell them that I'm [expletive] up, like the way you keep telling me. If you do not, I'm going to get to you right now. Before three I'm going to be at your house. I'm going to be at your house. I'm going to be wherever the [expletive] you are too. I have my ACR. I got 20 shots and I got my two, my little gun. I'm going to take care of business. Because, obviously you think I'm a punk. I told you already, I'm not a punk, woman. I'm not a punk and [expletive] yeah, I'm ready to die right now. I was ready to die when my mom got sick like two weeks ago, three

weeks ago, and now you want to talk to me like I'm a kid. I'm telling you straight up. I was not playing when I told you. I'm was not playing. I'm going to come shoot all you [expletive]. You first. Who the [expletive] you think you are? Who does [Witness A] think he is too? You guys are [expletive] piece of [expletive]. I'm going to [expletive] do it. I'm right here. You could come right now. If they don't get over here, I'm going to drive straight to your house and I'm going to kill your [expletive] straight up."

According to Victim A, after hearing the threats, she feared for her life and for the safety of her family. Victim A began tracking the Subject's cellular phone location. She noticed the Subject was driving in the direction of Victim B's residence and called 911.

According to Victim A, Witnesses A and B, were with her at the time and heard the threatening call made by the Subject. At 1021 hours, as Victim A was attempting to call 911, Witness A sent a text message to Witness C, who lived at Victim B's residence. Witness A warned Witness C to lock the doors of his residence and explained that the Subject had sent a threatening text and made a call indicating he was armed with a gun and was going to shoot everyone at the residence.

According to Witness C, the Subject arrived at the residence shortly after he received the text message from Witness A. The Subject banged on the front door while calling Victim A's name and demanded entry. Witness C hid in the hallway of his residence as he called 911. Witness C then called Victim B, who was sitting inside his car in the driveway of their home. By the time Witness C was able to warn Victim B, the Subject arrived at the residence and parked behind Victim B in the driveway, blocking him from leaving.

Victim B observed the Subject knock on the front door of his residence while calling Victim A's name. According to Victim B, the Subject then approached him while holding a small handgun in his right hand. Victim B told the Subject that Victim A was not home. In fear of being harmed, Victim B pleaded with the Subject to move his truck and allow him to leave to get some heart medication. The Subject did not point his gun at Victim B; however, the Subject held it in his right hand as he spoke. Victim B indicated that he was eventually able to convince the Subject to leave. Prior to the Subject driving away, Victim B heard him say, "I love you guys. Today probably I'll kill myself in front of your home."

At 1046:51 hours, Witness C called 911 and advised the operator that the Subject was outside his residence armed with a gun. Witness C told the 911 operator the Subject was looking for Victim A. Witness C added that the Subject had threatened his family and was banging on the door demanding entry. Witness C identified the Subject by name and described him as a male, 30-40 years of age. He added that the Subject had possibly been drinking and was driving a white Chevrolet truck.

At 1047:47 hours, Communications Division (CD) broadcast, "West Valley units. ADW suspect there now, [location of the call]. Suspect is a male in front of the location armed

with a gun. Standby for additional, Code Three, incident 1573, RD 1017. West Valley unit available to handle identify.”

At 1048:47 hours, West Valley Patrol Division uniformed Police Officers A and B, advised CD they were responding with emergency lights and siren(Code Three) to the radio call. At 1049:17 hours, West Valley Patrol Division uniformed Police Officers C and D, broadcast they were also responding to the call.

At 1049:57 hours, CD updated the comments of the call as follows, “West Valley units. Additional on your call, [location of call]. The PR received a call from a family member advising that the suspect was enroute to the location with a gun. The PR did not see a gun. The suspect is possibly under the influence of alcohol and is possibly still in the front yard. The PR is afraid to look outside.”

At 1054:42 hours, Officers A and B broadcast that they were Code Six in the vicinity of the call. Moments later, CD updated the comments of the call and broadcast, “The suspect left the location in an unknown direction. [Victim B] did observe that the suspect was armed with a gun.”

At 1056:19 hours, Police Officers E and F requested to be assigned the radio call and took over as the primary unit, because the address was located within their assigned basic car area. While Officers E and F were enroute, Officers A and B checked the exterior of the residence, confirmed the Subject had fled, and began gathering information from Victim B and Witness C.

At 1059:23 hours, Officers E and F arrived at the address and relieved Officers A and B. Officers C and D arrived moments later and obtained a description of the Subject’s vehicle from Officer B. They cleared the scene shortly thereafter to look for the vehicle and did not participate in the investigation at the location. While Officers E and F were conducting their investigation, Victim A utilized an application on her mobile device and located the Subject in the parking lot of a grocery store. Victim A then called Victim B’s residence and provided the information to Officers E and F. Using that information, Officer E asked Officers A and B to drive to the grocery store and search for the Subject. Officers A and B agreed, and at approximately 1101 hours, cleared the scene and began driving toward the grocery store parking lot. Officer E then advised CD of the Subject’s potential whereabouts and requested additional units respond to the grocery store parking lot. Officers C and D (who were aware of the radio call and had just left the scene) acknowledged the request and advised CD they would respond.

Officers E and F remained at scene and continued to interview Victim B and several of the witnesses. They ultimately completed a crime report for brandishing, listing Victim B as the victim.

After a review of BWV footage, investigators noted that Victim B believed the Subject was suicidal. This was gleaned from Officer E’s BWV footage at timestamp 1105:00 hours, as he/she spoke with Victim B near the entryway of the residence. When later

interviewed, Officer E indicated he/she did not hear Victim B make such a reference. Both officers described Victim B as difficult to understand, because he was wearing two masks and spoke with a heavy accent. Additionally, Officer E indicated there was background noise from rain, other family members conversing nearby, and broadcasts being made over their radio frequency. As such, the officers involved in the subsequent OIS were unaware the Subject was potentially suicidal.

At 1104:53 hours, Officers A and B arrived at the entrance to the grocery store parking lot and began searching for the Subject's vehicle. As they canvassed the area, Officer B confirmed over the radio with Officer E that the Subject was driving a white Chevrolet pickup truck.

Although both officers were equipped with BWV cameras, Officer B activated his/her camera approximately three minutes and 48 seconds after the OIS. As a result, his/her BWV camera did not capture the OIS or the events immediately preceding it. Unless otherwise attributed, the below listed times and events were gleaned from Officer A's BWV. It should be noted that Officer A's BWV camera was partially blocked at times by his/her jacket and did not capture the Subject's actions during the OIS.

At 1106:05 hours, as the officers drove west near the southwest corner of the lot, they observed a white Chevrolet pickup truck facing south parked along the south wall. Officer A stopped their police vehicle behind the pickup truck, while Officer B utilized the Mobile Data Computer (MDC) to query the vehicle's California License Plate No. in the Department of Motor Vehicles (DMV) database. The DMV check revealed the truck was registered to Victim A and Officer B believed the truck was the same vehicle the Subject was reported to have been driving.

Officer A immediately exited the police vehicle and stood behind his/her open driver's side door as Officer B reviewed the DMV information on the officers' MDC. According to Officer A, he/she did not see any movement inside the truck and believed it was unoccupied.

At 1106:37 hours, Officer B initiated a broadcast to CD stating, "We are Code Six on the vehicle. We are requesting a backup, supervisor, and air ship if available. We are going to be Code Six on a man with a gun" the officers then gave the licence plate of the vehicle

Officer B did not provide an updated address for his/her Code Six location. As a result, when CD immediately repeated his/her request, his/her location was broadcast at the location of the original call.

At 1106:57 hours, Officer B initiated a follow-up broadcast indicating they were at "the southwest corner of the parking lot." Communications Division relayed that information and added that Officers A and B were at the grocery store; however, the incorrect address was again broadcast. According to Officer B, he/she believed he/she had broadcast their follow up from the original location to the grocery store at the accurate

address. Investigators were unable to locate any evidence of that broadcast on the West Valley frequency.

Based on his/her belief that the truck was unoccupied, Officer A warned his/her partner to look for persons approaching from the west, because he/she was concerned the Subject might exit the grocery store and walk up behind them. Officer B, however, said that he/she observed the silhouette of a person on the driver's side of the truck and advised Officer A that he/she believed it was the Subject. Utilizing the driver's door of the police vehicle for cover, Officer A then unholstered his/her pistol and held it at a low-ready position in the direction of the pickup truck.

Regarding his/her decision to draw his/her pistol, Officer A stated, "I told my partner, I don't think he's in there. My partner says, 'Oh no. He's in there.' My partner saw movement. At that point, I unholster because our suspect is armed with a gun and based off the comments of the radio call and the statements made by the family. I know that he is armed with a gun. He is willing to go and knock on the door of loved ones and that incident that just occurred up on the driveway and their front door. And I unholster once my partner says that there's movement. I may need to use it. It may lead to a situation where it may escalate to where I need to use deadly force to protect myself or my partner at this time. I do see slight movement in the vehicle prior to the door opening almost immediately when I started giving commands, show me your hands."

After requesting back up, Officer B also exited the police vehicle and stood behind his/her open passenger door as cover. Officer B observed the Subject wearing a baseball-style cap and reiterated to Officer A that he/she believed the Subject was in the driver's seat of the truck. Fearing that the situation might lead to the need to utilize deadly force, Officer B stated that he/she drew his/her pistol to a two-handed, low-ready position.

Regarding his/her decision to draw his/her pistol, Officer B stated, "So, I put out the backup. I immediately, as I came out of the car, I unholster my weapon knowing that at this point, we had a match on the plate. We had previous information from the PR stating that [Victim B] had seen this individual armed with a handgun coming to the front door...I exited the car. I had reasonable suspicion that this individual, this situation was going to lead to the use of deadly force."

According to Officer A, he/she observed slight movement inside the Subject's truck and began ordering him several times to show his hands. At 1107:04 hours, he/she can be seen pointing his/her pistol in a southern direction toward the Subject's truck, while issuing these commands. Meanwhile, Officer B attempted to broadcast additional information but was covered by CD broadcasting an update to the radio call. At 1107:09 hours, Officer B broadcast, "Let me have the air. We are going to be on the southwest corner of the parking lot."

According to Officer B, as he/she and Officer A waited for backup officers to arrive, Officer A began giving the Subject commands to exit the truck with his hands up.

Officer B said the Subject exited and appeared highly agitated and turned toward Officers A and B. The Subject held an unknown object in his right hand as he swung his right hand back and forth in “a very angry manner.” Officer B indicated the Subject then stepped to his right, away from the side of the truck, which allowed him/her to see the Subject’s upper torso. Officer B believed the Subject spoke at that point; however, he/she was unable to determine what was said.

Witness E, who was seated in his vehicle parked a few feet east of the police vehicle, stated he also heard Officer A yell multiple times for the Subject to, “Get out of the car.” The investigation determined that Officer A did not order the Subject to exit his vehicle. As previously mentioned, Officer A told the Subject to show his hands. Upon review of Officer A’s BWV, it was noted Officer B also issued the Subject a command to show his hands.

According to Officer A, the Subject opened the driver’s door of his vehicle as he/she gave him commands to show his hands. Upon exiting, the Subject stood by his driver’s door and quickly faced him/her. Officer A described the Subject as angry and observed him extending one of his arms (parallel to the ground) and point a small dark handgun in his/her direction. Fearing he/she was about to be shot, Officer A indicated he/she fired two to three rounds at the Subject while targeting his center mass/chest area. Regarding his/her decision to utilize lethal force, Officer A stated, “He (the Subject) now in a quick almost simultaneously a quick motion, he gets out, and he faces towards me still standing near his driver’s door. He is now facing towards me and extends his arm out and he is holding a handgun. I see the barrel pointed right at me. And at this point being in fear for my life, my partner’s life. I’ve got the suspect pointing a gun at me. I fire my weapon at the suspect.”

Officers A and B both described the Subject’s demeanor as angry and indicated he uttered an unknown statement just prior to the OIS. Upon review of Officer A’s BWV utilizing audio enhancing software, it appeared the Subject may have verbalized something just prior to the OIS; however, it could not be confirmed. Investigators conducted a sound analysis of Officer A’s BWV utilizing multiple software applications. Based on that analysis, it was determined the Subject likely uttered the words “**I’ll shoot.**”

At 1107:18 hours, Officer A was captured on his/her BWV utilizing a two-handed grip as he/she began firing his/her pistol standing behind the open driver’s door of the police vehicle. Officer A continued to fire, and discharged six rounds, as he/she walked backward toward the rear of his/her vehicle.

As previously mentioned, Officer A initially believed he/she fired two to three rounds during this volley. Upon reviewing his/her BWV; however, he/she realized he/she may have fired an additional two rounds.

Following his/her first volley, Officer A said he/she stopped firing to assess and redeployed to the rear of his/her police vehicle. He/she believed moving behind his/her

vehicle provided better cover and felt it would be tactically advantageous not to remain standing in one spot.

At 1107:24 hours, Officer A can be seen standing at the rear of his/her vehicle, approximately one to two feet east of the rear bumper. He/she fired an additional two rounds from this position.

Officer A stated that as he/she assessed the Subject's actions from the rear of his/her police vehicle, he/she observed him quickly raise his handgun and point it directly at him/her. Based on that observation, he/she concluded the Subject must have lowered his handgun as he/she redeployed and was now pointing it at him/her a second time. Officer A articulated that the Subject held his handgun one handed with his arm extended toward him/her, in what he/she described as a "shooting stance." Officer A heard gunfire and saw the Subject gripping the handgun with his finger on the trigger. He/she concluded the Subject was shooting at him/her and returned fire with an additional volley of three to four rounds.

Regarding his/her observations, Officer A stated, "I redeploy to the rear of my vehicle, assess. I see the suspect still; his hands appear not to be fully extended towards me. However, I see him in a fast motion the suspect, what I recall, extends his firearm again towards me and I discharge my firearm. I shoot my firearm at the suspect. At that time, I believe he is firing rounds at me." Officer A went on to state, "He [the Subject] has his arm extended. He's – he appears to have a finger in the trigger guard...And also, I'm hearing what I believe is him firing his weapon in my direction."

The investigation determined the Subject did not fire his handgun during this incident. The sound of gunfire referred to by Officer A was Officer B discharging his/her first two rounds from behind his/her open passenger door. It should be noted that Witness D, who was parked 122 feet north of the officers, also believed the Subject fired multiple rounds at the officers. Witness D described the Subject's appearance as "very aggressive" and observed him extend his arms away from his body at shoulder height. Although she did not see a firearm in the Subject's hands, she heard gunfire and believed the Subject was shooting at the officers.

Approximately one to two seconds after firing his/her second volley, Officer A moved forward along the driver's side of his/her vehicle, while ordering the Subject to, "Get on the ground."

Officer A momentarily stopped behind his/her driver's seat and could be heard ordering the Subject a second time to, "Get on the ground." Nearly simultaneously, he/she began stepping backward toward the left rear bumper of his/her vehicle, while firing an additional volley of three rounds. The sound of rounds striking a metallic object can be heard in the background.



During the subsequent examination of the OIS scene, bullet impacts were discovered on the window frame of Officer A's driver's door. These impacts were consistent with rounds fired from his/her shooting position.

According to Officer A, he/she decided to redeploy from his/her rear bumper to his/her original position of cover behind his/her open driver's door, because he/she felt it provided a better view of the Subject. Officer A continued to observe the Subject pointing a handgun at him/her and believed he was still firing. He/she did not have an independent recollection of firing a third volley; however, after reviewing his/her BWV, he/she believed he/she fired an additional two rounds at the Subject from this location.

The investigation determined that Officer A fired 11 rounds in three separate volleys. His/her first (six round) volley was fired from an approximate increasing distance of 36 to 41 feet. His/her second (two round) volley was fired from an approximate distance of 46 feet. His/her third (three round) volley was fired from an approximate distance of 41 feet.

According to Officer B, after broadcasting a request for backup, he/she observed the Subject exit his driver's door holding an object in his right hand. The Subject appeared "highly agitated" as he turned to face the officers and began swinging his right arm forward and back. The Subject sidestepped to the right (east) a few feet, which gave Officer B a clearer view of his body. Officer B was able to then discern the Subject was holding a black revolver.

The investigation determined the Subject was armed with a blue-steel, .38 Special, double barreled Derringer type pistol.

The Subject then raised his handgun and extended his arm in Officer B's direction. Officer B said he/she could see the Subject pointing the barrel of his weapon at him/her and believed the Subject was about to shoot. Officer B heard a gunshot at that point and described feeling "completely shocked" and "scared." He/she momentarily assumed a crouched position behind the door jamb of his/her vehicle and started hearing a "volley of gunfire." As Officer B returned to a standing position to engage the Subject, he/she noted the Subject had returned closer to his open driver's door and was not as exposed as he had been moments earlier. Officer B was able to see the Subject's head and upper torso and observed that he was now facing Officer A.

Although Officer B was no longer able to see the Subject's handgun, he/she heard gunfire and assumed the Subject was firing at his/her partner. Officer B stated, "So at that point when I come to engage and he's no longer exposed, he's in that triangle, he's facing my partner and I'm hearing the gunfire. And I'm in my mind thinking he's shooting at my partner. [He/she's – he/she's] getting shot. [He/she's] getting killed. I need to stop this."

In an effort to stop the Subject's actions, Officer B began firing at the Subject, targeting his upper torso and head area. After discharging his/her first three rounds, Officer B

paused to assess and continued to hear gunfire while observing the Subject still standing and facing his/her partner. Officer B said he/she attempted to discharge a fourth round; however, his/her pistol did not fire.

In describing his/her malfunction, Officer B indicated that as he/she attempted to fire a fourth round, his/her trigger “went straight back” without any resistance. He/she also noted the slide to his/her pistol was still in battery.

As previously mentioned, Officer B’s BWV did not record the OIS. Upon review of footage obtained from Officer A’s BWV, it was noted that a brief and limited view of Officer B’s right leg can be seen in several frames as the OIS occurred. Based on that information, it appeared Officer B was standing behind and in close proximity to his/her open passenger door.

According to Officer B, as he/she continued to hear gunfire, he/she knelt on the ground and broadcast, “Shots fired, shots fired [get] me a backup.” Officer B proceeded to clear his/her malfunction by removing the magazine from his/her weapon and dropping it to the ground. He/she then obtained a new magazine from his/her equipment belt, inserted it into his/her firearm and stood up to engage the Subject. As he/she did so, Officer B saw the Subject still facing Officer A but noted that he/she was now standing a few feet to the left (east) of where he/she last observed him. Officer B saw the Subject turn and look at him/her and believed the Subject was acquiring him/her as a target. Due to the Subject’s position next to the bed of his pick-up truck, Officer B could only see the Subject’s upper chest and head. According to Officer B, he/she did not observe the Subject raise his weapon, but he/she feared the Subject was going to shoot him/her, and he/she needed to stop his actions. Officer B then fired a fourth round at the Subject and saw him fall to the ground.

Regarding his/her fourth round fired, Officer B stated, “I go down into a kneeling position once again. I grabbed the mic on the radio. I put out shots fired, and I request backup again... [I] put the mic down. Ripped off the magazine off my weapon...I reach down and get my other magazine...and I came back to engage...I find the suspect is still standing. Now he’s [the Subject] a little bit to the left of where I last saw him, still facing my partner. He engaged me. We lock eyes and at this point I’m thinking he’s grabbing me as a target again. And I come up. I concentrate on the front sights, and I squeeze one more round.”

Officer A’s BWV and the recording of the West Valley radio frequency, do not capture Officer B make any broadcasts during the OIS. After the shooting has ceased Officer B can be heard on Officer A’s BWV broadcasting, “Shots fired. Shots fired. Suspect is down.” The recording of the West Valley radio frequency only captures, “Shots fired. Shots fired.”

The investigation determined that Officer B fired five rounds from the magazine recovered from the pavement near the passenger side of his/her police vehicle. An ammunition count of Officer B’s weapon and the remaining magazine in his/her

ammunition pouch showed he/she did not fire rounds from those magazines. Investigators recovered five discharged cartridge casings that were later determined to be fired from Officer B's pistol. This information was consistent with Officer B firing five rounds during the OIS. However, this information was not consistent with Officer B conducting an in-battery reload and firing an additional round.

According to Officer A, the Subject dropped his handgun and fell to the ground. He/she was unable to see the Subject due to the height of the police vehicle and the distance he/she was standing away from his/her driver's door. Officer A also indicated that he/she was unable to see where the Subject's handgun had landed. Upon stepping closer to his/her driver's door, Officer A observed the Subject lying on his left side with his feet pointed north and his head south; however, his handgun was still not in view.

At 1107:32 hours, Officer A could be heard on BWV issuing the Subject several commands to get on the ground and not to move. Simultaneously, Officer B could also be heard broadcasting, "Shots fired. Shots fired. Suspect is down."

At 1107:37 hours, CD broadcast, "All units, officer needs help. [location of the original call]. Officer needs help [...] Any air unit come in on West Valley frequency." At 1107:46 hours, Officer B was heard broadcasting, "Suspect on the floor, Shots fired."

In response to Officer B's radio transmission, CD broadcast, "All units, shots fired, [location of the original call] in the southwest corner of the parking lot." Although Officer B originally broadcast his/her location as being in a "parking lot," he/she did not give the actual address or cross street to his/her location. As a result, CD broadcast Officers A and B were still at the location of the original call.

At 1107:54 hours, Officer A verbalized to Officer B that he/she was going to redeploy and then took cover behind a parked vehicle a few feet to the left of his/her position. Officer B maintained cover behind his/her passenger door. Officers A and B held their positions until backup officers arrived.

Officers C and D were already responding to the grocery store parking lot in response to the request made earlier by Officer E. They arrived moments after the OIS at 1107:57 hours. According to Officer D, he/she realized others may have been confused about the primary unit's location and clarified over the radio that the involved officers were at the grocery store.

Within seconds of that broadcast, Police Officers G, H, I, and J also arrived at scene.

Officers C, G, I, and J joined Officer A near the driver's side of his/her police vehicle with their weapons drawn. Officers D and H joined Officer B on the passenger side of the police vehicle with their weapons drawn. Officer G then holstered his/her handgun and obtained a shotgun from Officers A and B's police vehicle. After chambering a round, Officer G held the shotgun in a low-ready position as he/she covered the Subject.

Officer B verbalized that he/she did not know the whereabouts of the Subject's handgun. Officer B then told the officers on the driver's side of his/her police vehicle to cover the Subject, while he/she and Officers D and H cleared the Subject's truck. As they moved toward the passenger side of the truck, Officer B observed a handgun on the ground to the left (east) of the Subject and announced, "Gun to the left, Gun is on the left." Officer D made a similar announcement and further clarified that the Subject's handgun was "between the trash cans." After ensuring no one else was inside the truck, Officer B verbalized that the vehicle was clear. Meanwhile, the officers who were covering the Subject had slowly moved forward toward the driver's side of the truck and prepared to take him into custody.

The officers who responded to the OIS provided the following justifications for drawing and exhibiting their firearms. Officer C said that he/she unholstered his/her weapon because Officers A and B indicated the Subject had a gun. Officer G said, "I took out my firearm because I was afraid...this person was still armed, and he was still trying to hurt me, or partner, or my fellow officers." Officer I said, "I unholstered because there was just an officer-involved shooting and there was a weapon involved, so I unholstered because I didn't know where that weapon was. [I] didn't know if maybe the...suspect had an additional weapon." Officer J said that he/she exited his/her vehicle as quickly as possible and unholstered, "because it was a shots fired call. [The] suspect was not in custody at the time."

According to Officer D, he/she unholstered because an OIS had just occurred, and he/she was aware the Subject had been armed. Upon his/her arrival at scene, he/she saw the Subject was down but did not know if he was still armed. Officer H unholstered his/her pistol because he/she knew shots had already been fired and believed the situation could possibly escalate to the point where he/she would need it to protect him/herself and others.

As the arrest team made their approach, the Subject was now lying on his stomach with his arms extended outward and his feet slightly apart. Officer I stood over the Subject's handgun as Officer C holstered his/her pistol and handcuffed the Subject's arms behind his back without incident. Immediately after the Subject was taken into custody, Officer B made the following broadcast at 1109:57 hours, "I've got one in custody. I am going to need an RA for a male, breathing, conscious, and suffering from an unknown gunshot wound."

Based on a review of BWV, it was determined that Officers I and J holstered their pistols just prior to the Subject being handcuffed. Officers A, B, D, and H holstered their pistols moments after the Subject was handcuffed. Officer G downloaded the shotgun after the Subject was taken into custody and secured it inside the primary unit's police vehicle.

After donning rubber gloves, Officer J bent down and conducted a pat-down search of the Subject as he laid on the pavement. Officer J indicated he/she was concerned the Subject might have been struck in the lungs by gunfire, and consequently turned him

onto his right side in order to help him breathe more easily. Officer J held him in that position until the arrival of Los Angeles Fire Department (LAFD) personnel.

Prior to the arrival of LAFD, the Subject can be heard on Officer J's BWV stating, "This is what it feels to be shot...You should have shot me in the head."

At 1110:54 hours, Officer C broadcast that the incident had been resolved (Code Four) and requested a supervisor respond to the scene.

Officers A and B briefly spoke to each other to ensure they were not injured. After determining that neither officer was struck by gunfire, they separated from one another. They maintained that separation until 1115:34 hours, where they were then each separately monitored by a responding supervisor.

At 1112:01 hours, Sergeant A was the first supervisor to arrive at scene. Upon arrival, Sergeant A gave directions to officers to secure the scene, requested additional supervisors, and requested additional resources to canvass the area for witnesses. Sergeant A identified Officers A and B as being involved but did not physically monitor them.

At 1115:34 hours, Sergeant A was joined by Sergeant C. After determining who was involved, Sergeant C began monitoring Officer A and asked Sergeant A to monitor Officer B. Sergeants A and C walked the officers to their respective police vehicles and obtained Public Safety Statements (PSS).

According to Sergeant A, he/she was the initial Incident Commander (IC) until he/she was relieved by Sergeant B. Although Sergeant A initially assumed the role of IC, he/she did not notify CD of that fact.

According to Sergeant B, when he/she arrived, the scene was secured, and the involved officers were being monitored. He/she surveyed what tasks and resources might be needed, ensured the scene was properly contained, and established a Command Post (CP).

At 1119:42 hours, LAFD rescue personnel arrived at scene and noted the Subject was awake and talking. After cutting off the Subject's clothing, it was determined he had sustained two gunshot wounds to his upper torso. The Subject was subsequently transported to a local hospital.

Officer I road in the RA with the Subject, while Officer J followed behind in his/her police vehicle.

## **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 B	No	Yes	No	No	No
Officer A	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 B's tactics to warrant a finding of 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 Officers A and B's lethal use of force to be In Policy.

## **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of

circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

**Use of De-Escalation Techniques:** It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

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

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

**Use of Force – Non-Deadly:** It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

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

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

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



any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

**Use of Force – Deadly:** It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

**Note:** Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

**The Department's Evaluation of Deadly Force:** The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

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

## Tactics

### Tactical De-Escalation

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

#### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

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

**Planning** – Officers A and B had worked together for approximately three years and have an understanding that the driver is the contact/lethal officer, and the passenger is the cover/less-lethal officer. Officer A stated that while enroute to the radio call they discussed the comments of the call and that Officer B would be responsible for communication and less-lethal options. While enroute to the grocery store, Officers A and B planned to search the area for the Subject and his vehicle. If the vehicle was located, they planned to run the license plate and gather additional information.

The BOPC noted the limited information provided to Officers A and B regarding the Subject and his vehicle; however, the BOPC would have preferred that the officers had formulated a more specific plan in the event the Subject or his vehicle was located.

**Assessment** – As Officers A and B conducted a follow-up investigation to the grocery store to locate the Subject, they assessed that the Subject was armed with a handgun and that he had brandished that gun toward Victim B. Once the Subject's vehicle was located, the officers determined that the Subject was in his truck and attempted to contain him, ordering the Subject to show his hands, until additional units could arrive. When the Subject exited his truck and pointed his handgun at the officers, he eliminated their ability to de-escalate the situation.

**Time** – Determining they had located the Subject, Officers A and B maintained their distance and utilized their police vehicle as cover to allow time for backup units, a supervisor, and an Air Unit to arrive. When the Subject exited his truck and pointed

his handgun at the officers, he substantially impacted their ability to de-escalate or employ other options for the situation.

**Redeployment and/or Containment** – Officer A parked the police vehicle approximately 18 feet behind the Subject’s vehicle. After determining that the Subject was inside his vehicle, the Subject’s actions created a rapidly unfolding incident which did not afford Officer A time to redeploy their police vehicle. During the OIS, Officer B knelt behind his/her police vehicle’s passenger side door to address a perceived malfunction to his/her service pistol. After discharging his/her first volley of fire, Officer A deployed from the police vehicle’s driver side door to the rear of the police vehicle. Officer A believed moving behind his/her police vehicle provided better cover and felt it would be “a better tactical advantage” not to remain standing in one spot. After discharging his/her second volley of fire, Officer A deployed back to the police vehicle’s driver side door. After discharging his/her third and final volley of fire, Officer A deployed from the police vehicle’s driver’s side door to a parked vehicle to his/her left side. Officers A and B remained in their positions of cover while issuing verbal commands to the Subject and maintaining a visual on him until responding officers arrived to assist taking him into custody. After backup units arrived, Officer A returned to his/her police vehicle.

The BOPC noted Officer A’s decision to redeploy from the police vehicle door to the rear of the police vehicle during the OIS, increasing distance while obtaining a better position of cover. The BOPC noted that Officer A’s redeployment created a tactical advantage during a dynamic situation, which afforded him/her the opportunity to reassess from a safer position while maintaining a visual on the Subject.

**Other Resources** – After CD broadcasted the initial radio call, Sergeant A requested an Air Unit to respond, but was advised the Air Unit was unavailable. After locating the Subject’s vehicle, Officer B requested a backup, supervisor, and Air Unit. During the OIS, Officer B broadcast an “officer needs help” call. Responding officers arrived to assist with clearing the Subject’s vehicle and taking the Subject into custody.

**Lines of Communication** – While enroute to the location of the original call, Officer B advised Officer A of the comments of the radio call. Officer B briefed Officer E on the information received from his/her assessment of the incident and maintained communication with Officer E regarding the cross-streets of the Subject’s vehicle’s possible location and clarification on the vehicle description.

Locating the Subject’s vehicle, Officers A and B verbally advised each other regarding their observations inside the Subject’s truck. When Officer B requested a backup, he/she advised they were “Code Six on the vehicle” and “Code Six on a man with a gun.” Officer B made additional broadcasts they were in the “southwest corner of the parking lot.” Prior to the OIS, Officer A commanded the Subject to show his hands. During the OIS, Officer B broadcast shots were fired and an “officer needs help” call. During and after the OIS, Officer A commanded the Subject

multiple times to “get on the ground.” Upon review of Officer A’s BWV, it was noted that Officer B also issued the Subject a command to show his hands. After the OIS, Officer A told Officer B that he/she was redeploying to a parked vehicle. After the OIS, Officer A ordered the Subject into a prone position, and he complied.

When backup officers arrived, Officers A and B advised them of their observations and inability to see the Subject’s handgun at that time. Prior to taking the Subject into custody, Officers A, C, G, I, and J were positioned on the driver’s side of the police vehicle while Officers B, D, and H were positioned on the passenger side of the police vehicle. Officers on the driver’s side formulated a tactical plan prior to approaching the Subject. Officer B held the arrest team at the police vehicle’s driver’s side until they were clear to approach the Subject.

Reviewing BWV footage, investigators noted that while speaking to officers, Victim B indicated that he believed the Subject was suicidal. According to Officer E, he/she did not hear Victim B make such a reference. According to Officers A and B, Victim B was wearing two masks, spoke with a heavy accent, and was difficult to understand. Additionally, Officer E indicated there was background noise from rain, other family members, and radio traffic on their police radios.

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

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

To locate the Subject, Officers A and B conducted a follow-up investigation at the grocery store. Locating the Subject’s vehicle, Officer B broadcast, “We are Code Six on the vehicle. We are requesting a backup, supervisor, and air ship if available. We are going to be Code Six on a man with a gun, License Plate No. [...]” Because Officer B did not provide the grocery store’s cross-streets, CD broadcast the officers’ location as the location of the original call. Officer B initiated a follow-up broadcast indicating that he/she and Officer A were at “the southwest corner of the parking lot.” While CD relayed that information, adding that Officers A and B were at the grocery store, the incorrect address of the original location of the call was rebroadcast. According to Officer B, he/she believed he/she had broadcast their follow up from the original call to the grocery store at the correct location; however, investigators were unable to locate any evidence of that broadcast on West Valley frequency. Prior to Officer B’s follow-up broadcast, Officer E had broadcast the market’s cross-streets; Officer D broadcast the market’s cross-streets after the OIS.

The BOPC noted that when Officer B updated his/her Code-Six location, he/she did not include grocery store’s cross-streets. While investigators were unable to locate any evidence of the broadcast, the BOPC also noted that Officer B believed his/her broadcast included the cross-streets to the grocery store. The BOPC noted that Officer B’s broadcast did indicate that he/she and Officer A had

located the Subject. Officer B's broadcast also advised that officers were in the "southwest corner of the parking lot." The BOPC also noted that prior to Officer B's follow-up broadcast, Officer E had broadcast that the Subject was possibly at the grocery store parking lot. Officer E had also broadcast the market's cross-streets. The BOPC further noted that when CD relayed Officer B's follow-up broadcast, they added that the officers were at the grocery store. The BOPC opined that while CD broadcast the market's address as the location of the original call, backup units knew that Officers A and B were at the location of the grocery store, promptly arriving at the officers' location. The BOPC also opined that while it is best practice for officers to update their Code-Six status with complete information, the information Officer B did broadcast informed backup units of his/her location.

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

- The BOPC also considered the following:
  - **Tactical Planning** – Officers A and B had been partners for approximately three years and have established contact/cover roles based on who is passenger officer and who is driver officer. While enroute to the to search for the Subject's vehicle, Officers A and B had established their contact/cover roles; however, they did not formulate a specific plan in the event they located the Subject's vehicle.
  - **High Risk Vehicle Stop** – Checking the grocery store parking lot, officers located the Subject's vehicle. Instead of promptly exiting his/her police vehicle, Officer B remained seated while using the MDC to verify that the vehicle was the Subject's. Although the Subject had not yet been observed inside the vehicle, Officers A and B had located a vehicle that possibly contained an armed suspect.
  - **Firearm Manipulations** – During the OIS, Officer B believed his/her service pistol had malfunctioned when it failed to fire. Instead of tapping the magazine and racking the slide, Officer B inserted a new magazine into his/her service pistol.
  - **Incident Commander** – Sergeant A arrived after the OIS and assumed the responsibilities of Incident Commander (IC) but did not declare him/herself to be IC. While Sergeants C and B also responded to the OIS help call, neither declared themselves as the IC. The declaration of an IC is important to avoid confusion and implement clear command and control of the 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.

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.

In conducting an objective assessment of this case, the BOPC found that Officers A and B's tactics were a substantial deviation with justification from approved Department tactical training.

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

#### **A. Drawing and Exhibiting**

- **Officer A**

According to Officer A, he/she and Officer B responded to a radio call of an assault with a deadly weapon. Although the Subject had left the scene, witnesses stated that he possessed a handgun. While Officer A initially believed that the Subject's vehicle was unoccupied, Officer B advised his/her partner that he/she believed the Subject was inside the vehicle. Based on the comments of the radio call and the statements made by the family, Officer A believed that the situation may escalate to the point where he/she may need to use deadly force to protect him/herself or his/her partner. Officer A unholstered his/her service pistol.

The BOPC conducted a thorough evaluation of the reasonableness of Officer A's drawing and exhibiting of his/her service pistol. The BOPC noted that Officer A responded to a radio call of an assault with a deadly weapon. The BOPC also noted that Officer A had learned the Subject was observed brandishing a handgun. The BOPC further noted that Officer B had advised Officer A that he/she believed the Subject was inside the truck. Believing that the Subject was armed with a handgun and that the situation could escalate to the point that he/she may need to use deadly force to protect him/herself or his/her partner, Officer A 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 A, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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



- **Officer B**

According to Officer B, he/she and Officer A located the Subject's vehicle in the grocery store parking lot and stopped their police vehicle behind his truck. Because he/she had received information that the Subject was seen armed with a handgun, Officer B had "reasonable suspicion" that the situation may lead to "the use of deadly force." Officer B requested a backup, exited the police vehicle, and unholstered his/her service pistol.

The BOPC conducted a thorough evaluation of the reasonableness of Officer B's drawing and exhibiting of his/her service pistol. The BOPC noted that Officer B was responding to a radio call of an assault with a deadly weapon. The BOPC also noted that Officer B had learned the Subject was observed brandishing a handgun. The BOPC further noted that when he/she located the Subject's truck, Officer B observed him inside the vehicle. Believing the situation may lead to a situation involving the use of deadly force, 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, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

## **B. Lethal Use of Force**

- **Officer A** – (pistol, 11 rounds)

**Volley One** – (pistol, 6 rounds)

According to Officer A, as he/she commanded the Subject to show his hands, the Subject opened the driver side door of his truck. As Officer A continued to command the Subject to show his hands, he exited his vehicle and faced him/her in a "quick" almost simultaneous motion. The Subject stood near his driver's side door. The Subject appeared to be angry and extended one of his arms parallel to the ground, pointing his handgun in Officer A's direction. Observing the Subject pointing his gun at him/her, Officer A feared for his/her life and his/her partner's life. In response, Officer A fired his/her service pistol at the Subject's center mass/chest area. Officer A believed that he/she discharged two to three rounds during his/her first volley. According to the investigation, Officer A discharged six rounds during his/her first volley. Based on Officer A's BWV, it appeared that the Subject may have verbalized something just prior to the OIS. Based on a sound graph analysis conducted during the investigation, it was determined the Subject likely uttered the words "I'll shoot."

The BOPC conducted a thorough review and analysis of the reasonableness, necessity, and proportionality of Officer A's use of lethal force during volley one. The BOPC noted that Officer A observed the Subject extend his arm out towards him/her while holding his handgun. Officer A then discharged his/her service pistol at the Subject in fear for his/her life and Officer B's life. The BOPC noted that the actions described by Officer A, specifically the Subject extending his arm, gun in hand, were consistent with witness statements and outside video depicting the Subject in a shooting stance.

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

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

#### **Volley Two** – (pistol, two rounds)

According to Officer A, after his/her first volley, he/she stopped firing to assess and "redeployed to the rear" of his/her police vehicle. As Officer A assessed the Subject's actions from the rear of his/her police vehicle, he/she observed the Subject point his firearm towards him/her again in a "fast" motion. Observing the Subject's finger in the trigger guard of his handgun and hearing what he/she believed was the Subject firing his weapon, Officer A believed the Subject was shooting at him/her. In response, Officer A fired a second volley at the Subject from his/her service pistol. Officer A believed that he/she discharged three to four rounds during his/her second volley. According to the investigation, Officer A discharged two rounds during his/her second volley.

The investigation determined that the Subject's handgun did not discharge during this incident and the sound of gunfire referred to by Officer A was Officer B discharging his/her first two rounds.

The BOPC conducted a thorough review and analysis of the reasonableness, necessity, and the proportionality of Officer A's use of lethal force during volley two. The BOPC noted that Officer A's redeployment to the rear of the police vehicle created a tactical advantage during a dynamic situation, affording him/her the opportunity to reassess from a safer position while maintaining a visual on the Subject. The BOPC also noted that when Officer A observed the Subject pointing his handgun at him/her with his finger on the trigger as he/she was hearing gunshots, he/she believed the Subject was firing at him/her. In response, Officer A discharged his/her service pistol at the Subject. The BOPC determined that Officer A's description of the Subject's actions were consistent with Witness D's description and the evidence obtained by the investigators.

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

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

**Volley Three** – (pistol, three rounds)

According to Officer A, he/she redeployed towards his/her vehicle's driver's side door for a "better view" of the Subject. As Officer A "advanced" towards the driver's side door he/she observed the Subject "pointing a gun" at him/her. In response, Officer A began stepping backward while discharging his/her service pistol at the Subject. Officer A observed the Subject drop his handgun and fall to the ground. While he/she did not have an independent recollection of firing a third volley, Officer A stated that every time he/she discharged his/her service pistol during this incident, the Subject was pointing his handgun at him/her. According to the investigation, Officer A discharged three rounds during his/her third volley.

The BOPC conducted a thorough review and analysis of the reasonableness, necessity, and proportionality of Officer A's use of lethal force during volley three. The BOPC noted that Officer A redeployed back to the police vehicle door for a better view of the Subject and observed him pointing his handgun at him/her. Officer A then discharged his/her service pistol at the Subject and observed the Subject fall to the ground. The BOPC noted that Officer A assessed after each round he/she discharged from his/her service pistol. The BOPC also noted that while he/she did not have an independent recollection of volley three, Officer A believed that he/she was fighting for his/her life, and each time he/she discharged his/her service pistol, Officer A observed the Subject pointing his handgun at him/her.

The BOPC noted that when the Subject's handgun was recovered it was loaded with two live rounds and that the manual safety was engaged. The BOPC also noted that there were light primer strike marks present on each round. The BOPC further noted that the firearm analysis determined that the Subject's style of weapon creates light primer strikes when the trigger is pulled while the safety is engaged. The BOPC opined that the presence of light primer strike marks on each round was consistent with the Subject pulling the trigger of the handgun multiple times without it firing because the safety was engaged. The BOPC also opined that the evidence revealed by the analysis of the Subject's handgun demonstrated his intent to shoot the officers.

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

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

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

According to Officer B, after broadcasting a request for backup, he/she observed the Subject exit his driver's door holding his handgun. The Subject appeared "very agitated" as he turned to face the officers and began to "swing" his arm forward. The Subject sidestepped to the right a few feet, which gave Officer B a clearer view of his body. Officer B observed the Subject extend his arm and saw the barrel of his handgun. Officer B believed that the Subject was about to fire his handgun. Officer B then "heard a shot." In response, Officer B knelt. Kneeling behind his/her police vehicle's passenger door, Officer B continued to hear "gun fire." Officer B stood up to "engage the suspect" and observed that the Subject was "back closer" to the driver's side of his truck. The Subject was not as exposed as when Officer B previously observed him. Observing the Subject facing Officer A, Officer B feared that he/she was engaged in a "gun fight" with the Subject. Believing that Officer A was getting "shot" and "killed," Officer B determined that he/she needed to stop the Subject's actions. In response, Officer B discharged three rounds from his/her service pistol at the Subject and then assessed. Observing that the Subject was "not going down," Officer B attempted to discharge another round; however, his/her service pistol did not fire.

According to Officer B, he/she continued to hear shots "still ringing." In response, Officer B knelt again and broadcast, "shots fired, shots fired!" Officer B cleared his/her perceived malfunction by removing the magazine from his/her service pistol and inserting a magazine from his/her pouch. Standing up to "engage" the Subject, Officer B observed that the Subject was still standing. Observing the Subject "lock eyes" with him/her, Officer B believed that the Subject was targeting him/her. Fearing that the Subject was going to shoot him/her, Officer B determined that he/she still needed to stop the Subject's actions. In response, Officer B discharged one round from his/her service pistol at the Subject.

Investigators recovered five discharged cartridge casings that they determined were fired from Officer B's first magazine. While the investigation determined that Officer B fired a total of five rounds, it was unable to determine the times and sequence of Officer B's rounds. An ammunition count of Officer B's weapon and remaining magazines showed he/she did not fire rounds from the remaining magazines. According to the investigation, this was consistent with Officer B firing all five rounds prior to exchanging magazines.

The BOPC conducted a thorough review and analysis of the reasonableness, necessity, and proportionality of Officer B's use of lethal force. The BOPC noted that Officer B observed the Subject extend his arm while holding a handgun, saw the barrel of the Subject's handgun, and heard a gunshot. After kneeling behind the

police vehicle's door for cover, Officer B stood up to assess and observed the Subject facing towards Officer A. Hearing additional gunshots, Officer B believed Officer A was engaged in a gun fight with the Subject. Believing that the Subject posed a threat to Officer A's life, Officer B discharged his/her service pistol at the Subject to stop the threat. The BOPC also noted that according to Officer B, the Subject appeared to turn his attention from Officer A to him/her. Fearing for his/her life, Officer B discharged his/her service pistol at the Subject. While Officer B's recollection of his/her sequence of fire may have been affected by the stress of the situation, he/she clearly articulated assessing a deadly threat each time he/she discharged his/her service pistol. Furthermore, Officer B's description of the Subject's actions were consistent with Witness D's description and the evidence obtained by the investigators.

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

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