

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

OFFICER-INVOLVED SHOOTING – 025-21

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

Outside City 4/27/21

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

Officer L 26 years, 4 month

Reason for Police Contact

Officers observed a suspect in connection with a series of shootings/homicides which occurred successively within the City of Los Angeles. The officers began to follow the suspect and observed him commit an additional shooting into a vehicle. A vehicle pursuit ensued throughout several Southern California freeways, which ultimately terminated on the freeway in the City of Fullerton. The suspect refused to comply with the officers' commands to exit his vehicle, resulting in a barricaded suspect situation. Metropolitan Division, Special Weapons and Tactics (SWAT) officers responded to the scene and assumed command of the incident. While inside the vehicle, the suspect shot at SWAT officers, resulting in an Officer-Involved Shooting (OIS).

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

Subject: Male, 50 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 April 5, 2022.

Incident Summary

On April 27, 2021, at approximately 0055 hours, the Subject committed a shooting from his vehicle at a random victim, Victim A. After the Subject committed the shooting, he fled the scene.

At approximately 0057 hours, the Subject drove to a Starbucks approximately 0.6 miles north of the original shooting. The Subject drove his vehicle the wrong way into the drive-thru and struck the front bumper of the vehicle waiting to order. The driver of the vehicle was later identified as Victim B. The Subject positioned his vehicle alongside the victim's vehicle, fired multiple rounds at him, and fled the scene. Victim B was struck by gunfire and died at the scene.

At 0120 hours, the Subject drove approximately two miles north of the Starbucks. The Subject's vehicle was facing north on the street and stopped next to the passenger side (east) of a vehicle waiting for the tri-light. The driver of the vehicle was later identified as Victim C. The Subject fired three rounds into the victim's vehicle and fled the scene. The victim was struck by gunfire and died at the scene.

At 0123 hours, the Subject stopped along the curbside. A male, later identified as Victim D, drove south past the Subject's parked vehicle. The Subject fired multiple rounds at the victim's vehicle. The victim quickly drove away to safety and flagged down Los Angeles Police Department officers in the area.

At approximately 0123 hours, uniformed Officers A and B were in a marked black and white police vehicle with emergency equipment assigned to an overtime detail and heard the shooting at Victim D.

According to Officer A, he/she heard approximately seven to eight gunshots as the officers were in the area. The officers were flagged down by Victim D and learned he was just shot at. The officers verified the victim was not injured and began to search the area for the suspect in their vehicle.

Officer B broadcast the incident on the police radio.

As the officers were driving north they observed a white vehicle matching the description of the Subject's vehicle parked along the west curb.

Officer B broadcast that they were following the vehicle and requested back-up and an Air Unit.

Officer A began to follow the vehicle while Officer B conducted a want/warrant check on the vehicle's California license plate via Communications Division (CD).

A police helicopter broadcast to the officers that the vehicle with that license plate was wanted for a homicide in Southwest Division.

The officers continued to follow the Subject west on the I-10 and provided their updated location to CD. The Subject continued west on the I-10 in the number four lane with the officers behind him. The Subject changed lanes and drove in the number three lane along the passenger side of a white Tesla, driven by Victim E, positioned in the number two lane. The Subject pointed a pistol out of his driver's side window and fired one round at the Tesla, striking the vehicle.

As that occurred, Officer B broadcast a "shots fired, officer needs help" call, and provided the officers' location and direction of travel.

The Air Unit arrived overhead to provide aerial support. The Air Unit advised the officers to activate their emergency light equipment because they were having difficulty locating them. Officer A, while positioned behind the Subject's vehicle, activated the emergency lights and siren. At that time, the Air Unit located them and took over the communications broadcast for the officers. In addition, the Air Unit broadcasted the suspect was wanted for a shooting in Southwest Division and for shooting at the officers. According to CD, the Air Unit broadcast that the incident was not a "following" and that the officers were in pursuit.

Additional units began to arrive and join the pursuit to assist the officers.

Sergeant A joined the pursuit and declared him/herself as the Incident Commander (IC). Sergeant A broadcast to CD that seven units were authorized to join the pursuit and requested an additional supervisor respond to assist him/her. According to Sergeant A, he/she authorized seven units to be a part of the pursuit package due to the multiple shootings/homicides committed by the Subject and the unknown number of occupants inside the Subject's vehicle.

The Air Unit broadcast for CD to contact Metropolitan Division in the event the incident developed into a barricaded suspect situation. Shortly thereafter, CD contacted Metropolitan Division desk personnel to advise him/her of the incident. Subsequently, the desk officer contacted SWAT, Officer in Charge (OIC), Lieutenant A and advised him/her that officers were in pursuit of a murder suspect and that the suspect had fired at the officers.

According to Lieutenant A, his/her duty as the SWAT OIC is to work in conjunction with the IC and provide guidance and advice in the field to resolve situations. Lieutenant A contacted Sergeant A to obtain further information about the incident. According to Lieutenant A, Sergeant A advised him/her about the crimes the Subject had committed, the general location of the pursuit, and informed him/her California Highway Patrol (CHP) was not going to take over the pursuit. Lieutenant A advised Sergeant A to keep him/her apprised of the situation, the direction of travel for the pursuit, and if the Subject barricaded himself so SWAT could prepare to respond.

Throughout the duration of the pursuit, Sergeant A's BWV captured him/her make and receive numerous phone calls related to the pursuit, coordinate/liaison with CHP, and Lieutenant A. The pursuit traveled throughout multiple freeways and surface streets; however, the Subject refused to stop.

While the Subject drove south on the California State Route 57 (SR 57), CHP advised CD they were in position to deploy a spike strip. According to Sergeant A, since the Subject's speed decreased to approximately 30-40 miles per hour, he/she authorized CHP to assist them with a spike strip deployment. California Highway Patrol officers successfully deployed a spike strip at the SR57 south at Diamond Bar Boulevard. The Subject drove over the spike strip and three of his tires were flattened. The Subject drove south on SR57 at a slow speed and continued to evade the pursuing officers.

Sergeant A's BWV captured him/her broadcast to CD that he/she was going to relinquish the pursuit to CHP at SR57 and SR91 area. Approximately two minutes later, Sergeant A broadcast to units in the pursuit that CHP would take over the pursuit once the Subject's vehicle was south of SR91 at SR57. The Subject continued driving on deflated tires and transitioned west on SR91. CD broadcast that CHP was not going to take over or be involved in the pursuit and for LAPD to remain with the vehicle.

Sergeant A's BWV captured him/her notify Watch Commander Lieutenant B that Sergeant B arrived at the pursuit to liaison for SWAT. Sergeant A requested that Lieutenant B notify Deputy Chief A, to obtain approval for SWAT personnel to respond and intervene.

At approximately 03:21:16 hours, the Subject's vehicle stopped on SR91 east in the City of Fullerton. At the termination of the pursuit, the Subject remained inside his vehicle and barricaded himself.

The officers involved in the pursuit stopped and positioned their police vehicles in a linear formation across freeway lanes one through five for a high-risk vehicle stop. The pursuing officers positioned themselves behind their police vehicles and shields with designated lethal and less-lethal weapons. The Subject was ordered to exit his vehicle in English and Spanish; however, he refused to comply and remained barricaded.

According to Sergeant A, he/she was the lone supervisor with 16 officers at scene. Sergeant A's BWV captured him/her formulating a tactical plan and assigning multiple officers their roles and responsibilities. In addition, he/she designated lethal and less-lethal officers and assembled an arrest team.

The officers repeatedly ordered the Subject out of the vehicle in English and Spanish. The Subject remained barricaded inside his vehicle and refused to surrender.

According to Lieutenant A, as part of the tactical plan, he/she gave direction to SWAT supervisors to form two teams in two vehicles to completely immobilize the suspect.

At approximately 0358 hours, SWAT personnel and equipment began to arrive at the scene. The SWAT officers were assembled into two teams. One team was inside a Ballistic Engineered Armored Response Counter Assault Tool (BEARCAT) vehicle, while the other team was inside an armored Ford Excursion. The SWAT personnel were attired in dark blue utility uniforms, tactical vests, gas masks and ballistic helmets. Unless otherwise noted, each officer was armed with a Department-approved rifle carried on their person in a tactical sling and each carried a Department-approved handgun and was equipped with BWV.

Metropolitan Division SWAT Sergeant B was designated as the squad leader, while SWAT Police Officer C was assigned as the assistant squad leader. They were both positioned by the BEARCAT throughout the incident formulating the tactical plan.

Inside the armored Excursion, a Crisis Negotiation Team (CNT) was established with SWAT Sergeant C, designated as the OIC, along with Officer D as the primary crisis negotiator. According to Officer D, it was his/her duty to establish negotiations and a dialogue with the suspect to de-escalate the situation and have him/her surrender.

Also present at the scene were Los Angeles Fire Department (LAFD), Tactical Emergency Medical Support (TEMS) Firefighter/Paramedics (FF/PM). The TEMS FF/PM's were part of a contingent of trained FF/PM's who deploy with SWAT assets during tactical operations to render immediate medical aid to injured citizens and police personnel. According to Lieutenant A, the LAFD liaison assisted him/her with the staging of Fire Department resources for this incident.

Once SWAT arrived, they began to develop their tactical plan. This included redeploying the officers involved in the pursuit to containment positions, staging the TEMS paramedics, Anaheim Fire Department, and Fullerton Police Department.

Officer C's BWV captured Officer E drive the BEARCAT up to the Subject's rear bumper and position the front of the BEARCAT against it.

As that occurred, Officer F's BWV captured him/her drive and position the front of the Excursion against the Subject's front bumper.

Once the SWAT armored vehicles were positioned, Officer C advised Officer D to start crisis negotiation. The Excursion contained Sergeant C and Officer D as the CNT component. Officer G was positioned inside the hatch as the Designated Cover Officer (DCO). Officers F (driver) and H (front passenger) deployed their rifles in the direction of the Subject's vehicle. Officer I was also positioned inside the rear of the Excursion to assist with the arrest team.

As that occurred, the officers inside the BEARCAT positioned themselves accordingly. Officer J was positioned inside the BEARCAT hatch as the DCO. Officer K was positioned behind the driver's side rear of the BEARCAT as a DCO (on the ground

level) with a ballistic shield in front of his/her legs. Officer E was positioned behind Officer K deployed with a 40 millimeter Less-Lethal Launcher (40 mm LLL).

At approximately 04:00:50 hours, Officer C advised the officers inside the Excursion to reposition their vehicle. According to Officer C, he/she wanted the Excursion offset at a 45-degree angle, so the officers could look inside the vehicle. Additionally, he/she wanted to eliminate any potential crossfire issues and for the officers' fields of fire to be clear should the situation present itself.

Sergeant C continued to order the Subject out of his vehicle and provided additional use of force and K9 warnings. As this occurred, the Subject acknowledged the commands and told Sergeant C to exit his/her vehicle first and waived his hand toward him/her.

During the course of CNT efforts, Officer D and Sergeant C attempted to gain the Subject's cooperation, however, he refused to comply. At approximately 04:14:08 hours, Officer K's BWV captured the Subject's left arm hanging outside the driver's window. The Subject stuck his head out and looked toward the BEARCAT and stated, "Doggies, where are you?" Shortly after, the Subject engaged Officer C in a brief dialogue and motioned for him/her to walk over to him so they could talk. Officer C told the Subject he/she could not do that because he was armed. The Subject stated he only had it for protection and was not going to harm or hurt them.

At approximately 04:15:38 hours, Captain A, arrived at scene and was briefed by Sergeant A and Lieutenant A. Captain A assumed the role of IC from Sergeant A, as the incident continued to unfold.

After numerous verbal requests for the Subject to exit his vehicle failed, CNT attempted to call the Subject's cellular phone multiple times. The calls made went to his voicemail message and telephone contact was never made. Sergeant C also attempted to utilize a ruse that his sister wanted to see him; however, the Subject refused to surrender.

At approximately 0432 hours, Sergeant B broadcast whether should gas be used, as the plan to move forward with tactical intervention included the use of chemical agents. The gas plan was to insert chemical agents being delivered from the 40 mm gas launcher into the Subject's vehicle to persuade him to exit. The chemical agents were to be inserted through the rear window of the Subject's vehicle.

Sergeant C broadcast to SWAT personnel that the officers in the Excursion would remain inside the vehicle and let the other team of SWAT personnel dictate the tactics based on the Subject's behavior. Prior to initiating the gas plan, Lieutenant A broadcast to the units on scene the gas deployment and tactical plan. In addition, Lieutenant A staged Fire Department personnel, Fullerton Police Department, and verified that containment and traffic control were set around the area.

As the tactical operation continued to unfold, Officer C's BWV captured him/her broadcast to SWAT personnel that Officer J would deploy gas from the BEARCAT hatch

and the DCO on the ground would be Officer L. Shortly after, Officer C advised Officer K that he/she would be a secondary DCO if necessary.

At approximately 0440 hours, Sergeant C advised Lieutenant A that the Subject was not responding to the repeated requests for him to exit. Sergeant C stated that the Subject stopped talking to them and appeared to be looking around to see where SWAT personnel were positioned.

At 0441 hours, Deputy Chief A arrived at scene and assumed the role of IC from Captain A for the remainder of the incident.

Deputy Chief A approved the tactical plan and gave approval for gas deployment.

At approximately 0447 hours, Sergeant C's BWV captured him/her advise Officer G to come down from the Excursion hatch area and "button up" (close up) the Excursion.

At 04:48:12 hours, Sergeant B's BWV captured him/her broadcast over the radio to initiate the gas plan. At 04:48:22 hours, Officer J's BWV captured him/her fire four ferret projectiles, two rounds of OC, and two of CS gas from the BEARCAT hatch. Officer C directed Officer J to "top off" (load additional ferrets) in case they needed to deploy more gas.

After the initial deployment of gas was successfully fired into the vehicle, SWAT personnel waited and listened for any evidence that the Subject was affected by the chemical agents and received no response.

At 04:48:48 hours, Officer F's BWV captured him/her advise the officers inside the Excursion that both of the Subject's hands were not visible. Officer H then broadcast, "We can't see his hands!"

At 04:49:00 hours, Officer F's BWV captured the Subject fire seven rounds towards the officers positioned inside the Excursion.

After the Subject fired his weapon, Officer H broadcast, "Hey shots fired, shots fired!" Sergeant C broadcast, "He fired out the front window towards us!" After the gunfire, Officer L's BWV captured him/her ask, "Is that him?" As that occurred, Sergeant B's BWV captured him/her advise the officers positioned to the rear of the BEARCAT that the Subject fired out of the window. Officer C's BWV also captured him/her yell, "He fired out the window."

At 04:49:10 hours, Officer L's BWV captured him/her positioned as the DCO on the driver's side rear of the BEARCAT and fire two rounds from his/her rifle at the Subject. According to Officer L, he/she observed the Subject make a motion toward his/her direction and feared the Subject was going to shoot back at them. Officer L stated that he/she activated the laser pointer affixed to his/her rifle and fired two rounds from a standing shooting position toward the Subject's upper torso/shoulder area in a westerly

direction. The investigation determined that Officer L fired his/her rifle from a distance of 21 feet. After Officer L fired his/her rifle, he/she advised his/her team, "Think he's down, I think he's down."

After Officer L fired, Officer C's BWV captured him/her broadcast, "Everybody hold, everybody hold, we had contact, let's regroup." Officer C verified with Sergeant C that the officers inside the Excursion were accounted for. Sergeant C broadcast that the Subject was slumped over and had fired approximately six rounds toward them. He/she confirmed none of the officers inside the Excursion were injured. Sergeant C broadcast that the Subject was starting to sit back up and move around. He/she broadcast that the Subject appeared to be affected by the gas and was squinting his eyes.

Based on the observations made after the series of gas and exchange of gunfire, Lieutenant A formulated a plan to fire additional ferrets into the Subject's vehicle. At 04:50:41 hours, Sergeant B's BWV captured him/her broadcast for Officer J to deploy two more ferrets into the Subject's vehicle. According to Officer J's BWV, at 4:50:50 hours, he/she fired two ferret rounds into the Subject's rear window while positioned in the BEARCAT hatch.

After Officer J fired the two additional ferret rounds, Sergeant C broadcast that the Subject was sitting back up and leaning toward the door. Sergeant C advised everyone to stand by because he/she believed the Subject might exit. Moments later, Sergeant C broadcast that the Subject was squinting and it appeared the gas was affecting him. As that occurred, a plan was formulated by Lieutenant A and Officer C to prepare and stage the recon robot for possible use.

The officers inside the Excursion continued to monitor the Subject's actions, at which time Officer H advised that it appeared the Subject was manipulating his handgun.

At approximately 04:51:05 hours, Sergeant C's BWV captured him/her broadcast and request additional gas to be fired into the Subject's vehicle. Sergeant C advised that the Subject was "struggling with the gas and appeared to be manipulating the weapon in his lap."

At approximately 04:51:36 hours, Officer L's BWV captured him/her say, "I think he's reloading!" According to Officer L, "And then I heard a (untranslatable sound) as if he racked the action of his gun. So I believe Sergeant C actually possibly saw that from his/her vantage point, him racking the action of his gun, because he/she, I believe he/she put that out on the radio and I actually heard it. And I actually said, 'Hey, I think he's racking, I think he's reloading,' is what I said." Officer L stated, "But then shortly thereafter you could clearly hear the action of his gun."

Lieutenant A acknowledged and approved the request for additional gas via radio. Meanwhile, Officer J acknowledged and broadcast on the radio, "Roger, two more." According to Officer J's BWV at 04:52:15 hours, Officer J fired two additional ferret rounds into the Subject's rear window while positioned in the BEARCAT hatch.

After the ferrets were fired, the officers waited and listened for any evidence that the Subject was affected by the chemical agents. According to the officers positioned in the Excursion, they observed that the Subject was trying to “fight through it.” Sergeant C’s BWV captured Officer D yell that the Subject racked his weapon. Sergeant C broadcast, “Hey guys, it looks like he may have racked the weapon, I can’t say 100 percent sure, but he made that body movement.” As Sergeant C was in the middle of his/her broadcast, the Subject fired one round from his pistol.

According to Officer L’s BWV, at 04:52:49 hours, he/she was positioned as the DCO on the driver’s side rear of the BEARCAT when the Subject fired one round from his pistol while seated inside the vehicle. At 04:52:50 hours, Officer L’s BWV captured him/her fire five rounds from a standing shooting position from his/her rifle toward the Subject. Officer L’s rounds were fired in a westerly direction from a distance of 21 feet. According to Officer L, he/she observed the Subject’s body move, believed he was moving back toward his/her direction, and feared for his/her life as well as his/her partners’ lives. Officer L observed the Subject’s upper torso, head, and shoulder area and saw him turning toward him/her.

After Officer L fired his/her rifle, Sergeant B broadcast, “Yeah that first shot was from the suspect!” At that time Sergeant C broadcast that the Subject racked the weapon, shot at them again, and possibly struck the Excursion. Sergeant C provided an update on the Subject’s condition and advised he was slumped over and looking straight up in the air.

According to Officer L’s BWV, he/she maintained his/her position as DCO and said, “What’s he doing now, what’s he doing now?” At 04:52:51 hours, Sergeant C’s BWV captured him/her provide an additional update that the Subject was slumped over, and his head was slightly moving back and forth. According to Sergeant C’s BWV, at 04:53:19 hours, Lieutenant A contacted Sergeant C on his/her cellular phone to obtain further information on the Subject’s condition. They also discussed their next tactical plan and how to proceed. During the conversation, Sergeant C advised that the Subject was still alive, however appeared to be injured. Sergeant C stated the Subject appeared to be aggressive and did not think SWAT officers should approach the vehicle. Lieutenant A formulated a plan to deploy an aerosol OC vapor gas canister into the Subject’s vehicle prior to SWAT officers approaching the vehicle.

According to Sergeant C’s BWV, at 04:54:33 hours, the plan to deploy an OC vapor gas by the officers positioned at the BEARCAT was broadcast to all SWAT personnel by Lieutenant A.

While the designated SWAT officers prepared to deploy the OC vapor gas from the BEARCAT, Officer L maintained his/her position as DCO. At 04:54:53 hours, Officer L’s BWV captured him/her conduct a tactical reload and insert a new magazine into his/her rifle as he/she stood to the rear of the BEARCAT.

Officer C broadcast that the deployment of an OC vapor gas canister was going to be inserted into the rear window of the Subject's vehicle. At 04:58:12 hours, Officer K's BWV captured him/her positioned on the passenger side of the BEARCAT and successfully deploy an OC vapor gas canister into the Subject's vehicle while Officer C was positioned in front of him/her as the DCO.

Officer C's BWV captured him/her advise Sergeant B that he/she did not observe any movement. According to Officer C, "There was no movement, and it was my belief that the suspect did not pose a threat at that moment." Officer C formulated a plan to have a team of officers approach the passenger side of the Subject's vehicle to ascertain the Subject's condition.

At 04:59:35 hours, Officer C's BWV captured Officers E and K positioned side by side, next to the passenger side of the BEARCAT, along with Officer C behind them. Officer K was deployed with a ballistic shield in his/her right hand and his/her pistol in his/her left hand at a low-ready position.

Officer E deployed his/her rifle and was designated as the DCO. The three officers moved in a westerly direction toward the Subject's passenger door. Officers E and K utilized their tactical lights on their respective weapon system to illuminate the Subject's vehicle. Officer C attempted to open the door, but it was locked. At that time, Officer C requested that Officer K retrieve the hammer spike affixed to the ballistic shield to break the glass of the passenger door window. Officer C utilized the hammer spike and broke out the glass. Officer C reached into the vehicle and removed a sun shade that was obstructing his/her view through the passenger window and observed the Subject was not moving. Officer C broadcast to the units that the Subject was down and not moving. Officer C told Officer E that he/she would take over as the DCO and advised him/her to open the passenger door. Officer E transitioned from his/her rifle and unholstered his/her pistol in a low-ready position.

At approximately 05:00:54 hours, Officer E's BWV captured him/her unlock the passenger door from the inside and open the door. Officer E used his/her left hand to remove items from the passenger seat. As he/she did so, a blanket, discharged cartridge case, and miscellaneous items fell onto the ground adjacent to the vehicle. The officers conducted a quick visual inspection and were unable to locate the Subject's pistol.

Officer C formulated and advised Sergeant B of a tactical plan to redeploy with a team of officers to the driver's side door to extract the Subject and render medical aid. Officer E remained positioned at the passenger door as the DCO. Sergeant B broadcast the plan to the units, informed them the Subject was not moving, and the pistol had not been located. Officer C broadcast for Officer H to exit the Excursion and assist with taking the Subject into custody. At that time, the officers inside the Excursion exited the vehicle. Officers C, K, L, and M approached the Subject's vehicle. Officer L was designated as the DCO, while Officer M was deployed with the Beanbag Shotgun.

Officer K reached into the vehicle and unlocked the driver's door from the inside to open it.

Officer C's BWV captured him/her point out where the pistol was located inside the vehicle and direct Officer I to remove it.

Officer I's BWV captured him/her remove the pistol from the Subject's vehicle and place it on the hood of the vehicle.

Officer C directed Officer G to remove the Subject from the vehicle. At 05:02:55 hours, Officer G's BWV captured him/her grab the Subject's left arm followed by his/her right shoulder area and remove him from the vehicle onto the ground in prone position.

After the Subject was removed from the vehicle, Officer H's BWV captured him/her tell the officers not to handcuff the Subject.

At 05:03:28 hours, Officer C's BWV captured LAFD TEMS personnel approach and assess the Subject's injuries. According to the FF/PM, he/she observed that the Subject had penetrating trauma to his chest and trauma to his left shoulder and collarbone area. He/she indicated the Subject was pulseless, apneic, and had no cardiac activity.

While LAFD TEMS was conducting their assessment, Lieutenant A advised SWAT personnel to stay on camera until the Subject was pronounced dead.

At 0505 hours, the Subject's medical treatment and assessment was relinquished to the Anaheim Fire Department Rescue Ambulance PM. At 0508 hours, the Anaheim PM declared the Subject dead.

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
Lieutenant A	Yes	Yes	Yes	N/A	N/A
Sergeant C	Yes	Yes	Yes	N/A	N/A
Sergeant B	Yes	Yes	Yes	N/A	N/A
Officer J	Yes	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	N/A	N/A
Officer L	Yes	Yes	Yes	N/A	N/A
Officer K	Yes	Yes	No	N/A	N/A

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 Deputy Chief A, Lieutenant A, Sergeants C and B, and Officers C, J, K, and L's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer L'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/her case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

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

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

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

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

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

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

- Overcome resistance.

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

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

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

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

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,

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

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

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

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

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

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

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

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

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all

situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

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

Definitions

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

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

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

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

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See

Graham v. Connor, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

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

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

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

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

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

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

A. Tactics

Tactical De-Escalation Techniques

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

Tactical de-escalation does not require that an officer compromise his/her/herself 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 – Lieutenant A directed SWAT supervisors to form two teams, using two armored vehicles, to immobilize the Subject's vehicle. To obtain information about the Subject, Lieutenant A and Sergeant A caused a patrol unit to respond to his residence. Lieutenant A set up containment using LAPD personnel, had TEMS personnel on scene to render medical aid, a fire plan in place utilizing LAFD and AFD, and Fullerton Police Department for traffic control. Sergeant B liaised with Sergeant A and officers at the pursuit termination. Sergeant B planned for the arrival of SWAT officers and equipment, providing them a direction of travel. Sergeant B assisted Officer C as the primary team responsible for developing and implementing the tactical plan. Officer C directed SWAT personnel to their roles and positions and was primarily responsible for the tactical planning during the incident, including armored vehicle placement, initiation of the CNT, and deployment of gas to obtain the Subject's surrender. Officer C put an additional plan in place involving a K-9 dog, should the Subject attempt to flee on foot. Due to the Subject's aggressive behavior, Sergeant C directed an additional gas deployment before SWAT officers approached his/her vehicle on foot.

Assessment – After being briefed by Sergeant A, Lieutenant A determined the incident met the criteria for a possible SWAT vehicle pursuit interdiction. When the Subject refused to surrender after the pursuit, it was determined that the incident met the criteria for a barricaded suspect. Throughout the incident, Lieutenant A, Officer C, and Sergeants B and C continued to assess and coordinate resources, including the deployment of gas. Based on his/her assessment, Deputy Chief A approved the tactical and gas plans.

Time – Using armored vehicles to immobilize the Subject's vehicle provided SWAT personnel with time to redeploy patrol assets, negotiate with the Subject, contain the area, deploy medical resources, and request assistance from local agencies. Lieutenant A, Sergeant B, and Officer C utilized time to create tactical plans and ensured all personnel understood their roles. Following the first OIS, Officer C broadcast that officers had engaged the Subject and for everyone to hold their positions and regroup. Following the second OIS, additional gas was introduced into the Subject's vehicle before officers approached it on foot.

Redeployment and/or Containment – Two armored vehicles were used to contain the Subject and immobilize his vehicle. To eliminate any potential crossfire issues and so the officers in the Excursion could look inside the Subject's vehicle, Officer C advised Officer F to reposition the Excursion at a 45-degree angle. Before deploying gas: Officer C, Lieutenant A, and Sergeant B ensured patrol officers were redeployed further away from the Subject's vehicle; Sergeant C advised Officer G to come down from and close the Excursion's roof hatch; Lieutenant A and Sergeant B set containment and ensured traffic control was set on the streets surrounding the

freeway. Officer C noted additional areas of concern should the Subject flee over the embankment and requested additional units to redeploy in those areas.

Other Resources – During the pursuit, CHP was requested to assume the pursuit. While CHP declined, they did assist with a spike strip. During the pursuit, Metropolitan Division was advised officers were pursuing a murder suspect. After speaking with Sergeant A, Lieutenant A deployed Sergeant B to the scene to liaise. When the Subject barricaded in his vehicle, SWAT, CNT, TEMS, and K-9 personnel responded to the scene. Fullerton Police and Anaheim Fire also responded to the scene.

Lines of Communication – During and after the pursuit, Sergeant A and Lieutenant A discussed the incident. When the pursuit terminated, Sergeant A communicated with his/her officers, designating roles, including lethal, less-lethal, and communications in both Spanish and English. As Officer C prepared tactical plans, he/she ensured CNT personnel established lines of communication with the Subject. Lieutenant A communicated with Sergeant B and Officer C during the planning and deployment of gas. Officer C communicated tactical roles and officers' expectations should a K-9 dog be deployed. Officer C also provided updates to all personnel at the scene through Sergeant B and Lieutenant A. Due to the Excursion's height, officers in the vehicle were able to observe and relay the Subject's actions. After the Subject shot at their vehicle, officers in the Excursion broadcast their observations and that they had not been injured. Officers C, D, H, Sergeant C, and various patrol officers (after the pursuit) attempted to communicate with the Subject; however, he would not surrender. By speaking with the Subject's sister, officers obtained his cellular phone number; however, the Subject did not answer.

- During its review of the incident, the BOPC noted no primary Debriefing Topics, however the following secondary topics were noted:

Department-wide Loading Standards – Officer L's 30-round capacity rifle magazine was loaded with 27 rounds rather than the Department's rifle loading standard of 28 rounds.

Rifle Magazine Markings – Officers K and L each had a magazine that was not marked with a round count as required.

Situational Awareness – Before gas deployment, DCO Officer G redeployed into the Ford Excursion from the top hatch. While moving within the confines of the Excursion, Officer G's rifle barrel bumped Sergeant C's left shoulder.

Gas Mask – Before initiating the gas plan, SWAT personnel donned their gas masks; however, Sergeant C was not equipped with his/her gas mask.

Making Physical Contact with a Slung Rifle – As he/she contacted the Subject, Officer G's rifle was slung across his/her chest. The BOPC would have preferred

that Officer G had transitioned his/her rifle to his/her support side, to his/her back, or had handed it to a partner.

These topics were to be discussed at the Tactical Debrief.

Command and Control

- After the pursuit terminated, Sergeant A formulated a tactical plan, identified officers' areas of responsibility, and assigned roles, including lethal, less-lethal, containment, arrest team, and communications (in both English and Spanish). While the Subject refused to exit his/her vehicle, Sergeant A had already obtained approval from Deputy BOPC A for SWAT personnel to respond to the scene. Sergeant A provided intelligence information and updates to Lieutenant A and briefed Sergeant B upon his/her arrival at the scene.

Arriving at the scene, Captain A was briefed by Sergeant A and Lieutenant A. Captain A then assumed the role of IC from Sergeant A. After the OIS, Captain A notified the DOC regarding the CUOF. Deputy Chief A authorized SWAT personnel to respond to the pursuit for pursuit intervention. At 0441 hours, Deputy Chief A arrived at the scene and assumed the role of IC from Captain A. After being briefed by Lieutenant A, Deputy Chief A approved the tactical and gas plans.

Lieutenant A worked in conjunction with the various ICs and provided guidance and advice as the incident unfolded. According to Lieutenant A, his/her duty as the SWAT OIC was to work in conjunction with the IC and provide guidance and advice to resolve situations. Lieutenant A contacted Sergeant A to obtain information about the incident and directed Sergeant B to respond to the pursuit to liaise with patrol assets. Lieutenant A directed additional SWAT personnel to prepare equipment and stage at Metropolitan Division in the event the Subject barricaded inside his vehicle. When the incident became a barricade situation, Lieutenant A advised Sergeant A that SWAT personnel were responding to the scene and verified that SWAT intervention was approved by Deputy Chief A. Lieutenant A briefed SWAT personnel and discussed their tactical plan. As CNT occurred, Lieutenant A broadcast an update that the Subject was responsible for multiple homicides and shots fired during the pursuit. When Captain A arrived at the scene, Lieutenant A provided him/her with a briefing. Lieutenant A also briefed Deputy Chief A when he/she arrived. Before gas was deployed, Lieutenant A broadcast the plan and ensured fire and medical plans were in place. Lieutenant A and Officer C formulated a plan to prepare and stage the recon robot for possible use. Following the OIS, Lieutenant A acknowledged and approved the request for additional gas deployments. Lieutenant A contacted Sergeant C to obtain the Subject's condition. Lieutenant A and Sergeant C discussed how to proceed with the next phase of their tactical plan. Lieutenant A and Sergeant C formulated a plan to deploy vapor gas before SWAT officers approached the Subject's vehicle on foot.

Sergeant B responded to the pursuit to act as a liaison for patrol assets. Sergeant B was the squad leader positioned by the BEARCAT and was responsible for formulating tactical plans with Officer C. Sergeant B advised SWAT personnel that a search of the Subject's residence resulted in the location of an empty Glock handgun case, a rifle, and ammunition. Sergeant B broadcast the initiation of the gas plan. Sergeant B advised Lieutenant A, as well as the officers positioned to the rear of the BEARCAT, that the Subject shot at the Excursion and that Officer L had been involved in an OIS. Following the OIS, Sergeant B broadcast for Officer J to deploy two additional ferret rounds into the Subject's vehicle. After Officer L fired his/her second volley, Sergeant B broadcast that the initial round heard was from the Subject. After being advised by Officer C that he/she did not observe any movement from the Subject, Sergeant B broadcast a tactical plan, developed by Officer C, to deploy a team of officers to extract the Subject from the driver's side and render medical aid. Sergeant B also advised officers that the Subject was not moving and that his pistol had not been located. Sergeant B obtained Officer L's PSS and began monitoring him/her until relieved by additional supervisory personnel.

Sergeant C was inside the Excursion, designated as the OIC and part of the CNT. During CNT efforts, Sergeant C utilized the bullhorn to provide K-9 and Use of Force warnings, as well as warnings about the use of gas. Sergeant C also tried to convince the Subject to exit his vehicle, at one point using a ruse involving the Subject's sister. Sergeant C broadcast that officers in the Excursion would remain inside the vehicle and allowed personnel in the BEARCAT to dictate tactics. Sergeant C advised Lieutenant A that the Subject was not responding or surrendering. Sergeant C further advised that the Subject stopped communicating with officers and appeared to be looking around to see where SWAT personnel were positioned, particularly Officer G. For Officer G's safety, Sergeant C directed him/her to come down from and close the Excursion's roof hatch. After the Subject shot at the Excursion, Sergeant C broadcast that the Subject had fired approximately six rounds out the front window toward the vehicle and confirmed that the officers inside were uninjured. Sergeant C broadcast updated information regarding the Subject's actions and condition. Believing that the Subject was manipulating his handgun, Sergeant C broadcast a request for additional gas deployment. As Sergeant C was in the middle of his/her broadcast, the Subject fired one round from his pistol. Following the second volley of the OIS, Sergeant C provided an update on the Subject's condition and advised that the Subject was slumped over and looking up in the air. Speaking with Lieutenant A, Sergeant C advised that the Subject appeared to be critically injured. While he/she recognized the need to render aid, Sergeant C was also concerned for the officers' safety and advised against approaching the Subject's vehicle at that point. Sergeant C was part of a discussion to deploy the stronger vapor gas to determine the Subject's condition. After the Subject was apprehended, Sergeant C secured Officer L's rifle and monitored witnessing officers until relieved by additional supervisory personnel.

Officer C advised Officer D to start CNT once the SWAT armored vehicles were in position. To eliminate any potential crossfire issues, Officer C advised Officer F to

reposition the Excursion at a 45-degree angle. Officer C ensured that Officers J and L knew their respective fields of fire. Officer C formulated a tactical plan with Officer M involving the use of a K-9 dog, and the plan was broadcast to SWAT personnel. Officer C developed a plan to deploy OC and CS gas to obtain the Subject's surrender. Officer C communicated roles to his/her team in the BEARCAT and broadcast those designated roles to SWAT personnel. After the first gas deployment, Officer C directed Officer J to reload the 40mm LLL in case additional Ferret rounds needed to be deployed. After Officer L fired his/her rifle, Officer C broadcast that officers had engaged the Subject and for everyone to hold their positions and regroup. Officer C verified with Sergeant C that the officers inside the Excursion were uninjured. A plan was formulated by Lieutenant A and Officer C to prepare and stage the recon robot. After observing no reaction to the vapor gas, Officer C formulated a plan to have a team of officers approach the passenger side of the Subject's vehicle to ascertain his condition. After removing the vehicle's passenger window, Officer C broadcast that the Subject was down and not moving. Officer C advised that he/she was assuming DCO and directed Officer E to open the passenger door. Officer C then formulated a plan to have a team of officers extract the Subject from the driver's side and render medical aid. Officer C broadcast for Officer H to exit the Excursion and assist with apprehending the Subject. After opening the driver's side door, Officer C observed the Subject's handgun. For officer safety, Officer C directed Officer I to move the Subject's handgun. Officer C then directed Officer G to remove the Subject from the vehicle.

The BOPC noted the varying levels of supervision that collaborated to manage and resolve this incident. The BOPC noted that as the incident progressed, personnel followed the chain of command, obtaining proper approval before implementing the various phases of the tactical plan. While the Subject dictated the ultimate outcome, the BOPC opined that Deputy Chief A, Lieutenant A, Sergeants A, B, C, and Officer C performed in a manner consistent with Department training and expectations of field supervisors and senior officers during a critical incident.

The actions of Deputy Chief A, Lieutenant A, Sergeants A, B, C, and Officer C were consistent with Department training and the BOPC's expectations of field supervisors and senior officers during a critical incident.

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

In conducting an objective assessment of this case, the BOPC determined that Deputy Chief A, Lieutenant A, Sergeants B and C, Officers C, J, K, and L's actions were not a deviation from approved Department tactical training.

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

Although it was determined that Officers D, F, G, H, and M would not receive formal findings, the BOPC determined that these officers would benefit from attending the Tactical Debrief.

Therefore, the BOPC found Deputy Chief A, Lieutenant A, Sergeants C and B, and Officers C, J, K, and L's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- **Officer K – Rifle**

Officer K was positioned on the BEARCAT's left rear corner as a DCO with his/her rifle. Shortly after arriving, Officer L replaced Officer K. At approximately 0406 hours, Officer K assumed the DCO position so Officer L could don his/her gas mask. Officer L would resume the DCO position at approximately 0434 hours, for the duration of the incident.

- **Officer L – Rifle**

Officer L stated that he/she was aware that the suspect had committed two murders previous to the pursuit, and that the responding officers had seen him displaying or firing a gun. He/she advised that his/her assignment was lethal coverage from the rear of the SWAT Excursion.

- **Officer K – Service Pistol**

Observing no reaction to the vapor gas by the Subject, Officer C formulated a plan to have a team of officers approach the passenger side of the Subject's vehicle to ascertain his condition. Equipped with a ballistic shield, Officer K unholstered his/her service pistol and approached the vehicle's passenger side with Officers C and E.

- **Officer J – Rifle**

According to Officer J, he/she was assigned as a DCO in the BEARCAT's roof hatch. Officer J alternated between DCO and discharging OC and CS gas from the 40mm launcher as directed. After each discharge of gas, Officer J reacquired his/her rifle and resumed his/her DCO role.

- **Officer C – Rifle**

When Officer K deployed the OC vapor gas canister into the Subject's vehicle, Officer C was positioned as the DCO. Observing no reaction to the vapor gas by the Subject, Officer C formulated a plan to have a team of officers approach the passenger side of the Subject's vehicle to ascertain his condition. Officers C, E, and K approached the vehicle's passenger side and attempted to open the passenger door, but it was locked. Using a spiked hammer, Officer C broke the door's window, removed a sunshade that was obstructing his/her view, and observed that the Subject was not moving. Officer C advised that he/she was assuming DCO and directed Officer E to open the passenger door.

The BOPC evaluated Officers C, J, K, and L's drawing and exhibiting. The BOPC noted that SWAT officers responded to an incident where the Subject, armed with a handgun, had barricaded himself inside his vehicle after killing two people, shooting at three others, and leading police on a protracted vehicle pursuit. The BOPC also noted that as the incident progressed, the Subject refused to negotiate or surrender, taunted officers, and fired multiple rounds at officers in an armored vehicle. The BOPC further noted that before both volleys of the OIS, the Subject ostensibly turned toward Officer L. Based on the totality of the circumstances, the BOPC opined that it was reasonable for Officers C, J, K, and L to exhibit their rifles while attempting to gain the Subject's compliance and effect his arrest. The BOPC also opined that it was reasonable for Officer K to transition to his/her service pistol while holding the ballistic shield. While the Subject appeared unresponsive to gas at that point, his actual condition and the location/condition of his handgun were unknown. Also, officers are taught to hold the ballistic shield in one hand and their service pistol in the other.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers C, J, K, and L 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 C, J, K, and L's drawing and exhibiting to be In Policy.

C. Lethal Use of Force

- **Officer L – Two Volleys – (Rifle)**

Background – Officer L's background was the Subject's vehicle's passenger compartment. According to Officer L, he/she was aware of the Excursion's position. Officer L was also aware that there were concrete barriers on both sides of the freeway.

Volley One – Officer L was positioned at the BEARCAT's left rear corner as a DCO. According to Officer L, while he/she was not initially sure who had fired the seven rounds, he/she noticed that no one was in the Excursion's roof hatch, and quickly

determined that the Subject had fired the rounds. Officer L then saw the Subject ostensibly turn toward his/her direction in a shooting motion. Fearing that the Subject was going to shoot at him/her, Officer L activated the laser pointer affixed to his/her rifle and discharged two rounds at the Subject's upper torso/shoulder area, at 04:49:10 hours. When he/she no longer saw the Subject moving, Officer L ceased firing and stated, "I think he's down." Officer L estimated that he/she fired from 15 to 20 feet. According to the FID investigation, Officer L fired two rounds from a standing position, from 21 feet, in a westerly direction.

Volley Two – At approximately 04:51:36 hours, Officer L stated, "I think he's reloading!" According to Officer L, it sounded like the Subject cycled the slide on his handgun, reloading his pistol. Officer L was still positioned at the BEARCAT's left rear corner as a DCO. According to Officer L, he/she knew that the Subject had fired multiple rounds at the Excursion and was concerned the ballistic windshield may fail. After firing the sole round of his second volley, the Subject appeared to turn back toward Officer L. Observing the Subject turning toward him/her, Officer L feared for his/her partners' lives as well as his/her own. At 04:52:50 hours, Officer L discharged five rounds from his/her rifle at the Subject from a standing position, from 21 feet. Officer L ceased firing when he/she no longer saw the Subject moving. According to Officer L, he/she shot each round to stop the Subject's deadly behavior.

The BOPC evaluated the reasonableness, necessity, and proportionality of Officer L's use of lethal force during both volleys of the OIS. The BOPC discussed the Subject's aggressive actions before the OIS. The BOPC noted that the Subject, armed with a handgun, had barricaded himself inside his vehicle after killing two people, shooting at three others, and leading police on a protracted vehicle pursuit. The BOPC also noted that as the incident progressed, the Subject refused to negotiate or surrender, fired multiple rounds at officers in an armored vehicle, and taunted officers, stating, "bring it on," "sayonara," and "doggies, where are you?" The BOPC further noted that before both volleys of the OIS, the Subject ostensibly turned toward Officer L.

In terms of the first volley, the BOPC considered Officer L's observations of the Subject after he shot at the Excursion, specifically the Subject moving toward Officer L as if to shoot at him/her. Based on the Subject's actions and Officer L's observations, the BOPC opined that it was reasonable for Officer L to believe the Subject was going to shoot toward him/her and the officers positioned at the BEARCAT. The BOPC noted that Officer L ceased firing when he/she no longer saw the Subject moving, indicating that he/she was assessing with each round he/she fired.

In terms of the second volley, the BOPC noted that the Subject refused to surrender after the first OIS. Despite additional gas being deployed into his vehicle, the Subject continued to display aggression towards the officers. The BOPC also noted that Officer L announced, "I think he's reloading!" after hearing the Subject

ostensibly cycling the slide on his handgun. The BOPC further noted that after firing the sole round of his second volley, the Subject appeared to turn back toward Officer L. Based on the Subject's actions and Officer L's observations, the BOPC opined that it was reasonable for Officer L to believe the Subject was going to shoot toward him/her and the officers positioned at the BEARCAT. The BOPC noted that per Officer L, he/she shot each round to stop the Subject's deadly behavior.

The BOPC discussed Officer L's rate of fire during the second volley and the feasibility of assessing between rounds. The BOPC noted that Officer L had described the Subject as being upright and still a threat as he/she discharged his/her rounds. During the Use of Force Review Board, a Subject Matter Expert (SME) explained that while SWAT officers are held to the same standard as the rest of the Department, they are equipped with specialized equipment, unique to their assignment. The SME noted that Officer L was equipped with both a laser sighting system and an optical sight. Similar to a laser pointer, the laser sight projects a dot onto the target. In low light conditions, the dot is more visible. Per the SME, both systems, specifically, the laser sighting system allow SWAT officers to keep both eyes open while aligning on a target. Per the SME, this allows for faster assessments between rounds. The SME also noted that Office L's rifle is a low recoil weapon system. Per the SME, this allows officers to rapidly reacquire their target, especially when combined with a laser sight. The BOPC noted that per Officer L, he/she was using his/her laser sighting system, as it was the optimum thing to use when it is dark outside. Additionally, the BOPC noted that per the Department's Basic Firearms Manual, dated November 2021, multiple shots may be objectively reasonable as officers involved in a shooting may have to shoot more than two rounds at a suspect to stop the suspect's continuing deadly behavior.

The BOPC also discussed Officer L's concern for the officers in the Excursion, specifically that the ballistic windshield might have failed had the Subject continued to shoot at it. The SME explained that armored vehicles are bullet-resistant, not bulletproof, meaning that rounds may penetrate. The SME further explained that armored vehicles have varying ballistic capabilities depending on the number of rounds and location of the vehicle struck. Also of concern were repeated strikes to the same area as well as the age of the ballistic material, as it degrades. Based on the nature of this incident, the SME agreed with the Excursions placement, as well as the officers' positions inside, and opined that Officer L's concerns were valid.

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

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