

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

OFFICER-INVOLVED SHOOTING – 044-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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North Hollywood	8/6/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	3 years, 10 months
Officer B	3 years, 10 months
Officer C	1 year, 2 months
Officer D	23 years, 3 months
Officer E	7 years, 8 months

Reason for Police Contact

Officers were providing directed patrol when they were flagged down by a citizen who reported that a possible domestic assault was occurring in an alley. As they responded to investigate, they were confronted by a Subject armed with a pistol, which then resulted in an Officer-Involved Shooting (OIS). The Subject was not struck by gunfire and subsequently discarded the pistol and fled on foot. Following a brief foot pursuit and a nearly twenty-minute standoff, officers took the Subject into custody.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Male, 41 years of age.			
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Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force (CUOF) 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 (FID) 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 (UOFRB) 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 7/26/22.

Incident Summary

On Friday, August 6, 2021, at 0829:15 hours, uniformed Police Officers A and B were flagged down by Witness A. Witness A stood on the driver's side of the police vehicle, reported that a man was struggling with a person, and directed the officers toward the rear parking area of a building.

Believing that a domestic assault was occurring, Officer B negotiated an eastbound turn into the rear alley behind the building. Officer B stopped the police vehicle at the mouth of the parking area.

According to Officer B, as he/she exited their vehicle, he/she observed three people at the rear of the building. Officer B recalled that Witness B was either laying down or sitting on a set of steps. A male, later identified as the Subject, was either "hovering" over Witness B or possibly kneeling in front of Witness B.

At 0829:35 hours, when Officer B attempted to contact him, the Subject looked in the officers' direction, immediately placed his hands into his pockets, and abruptly began to walk west, away from Witness B. According to Officer B, based on his/her observations of the Subject's behavior, he/she believed that the Subject was possibly armed. Officer B unholstered his/her pistol as he/she directed the Subject not to reach into his pockets. The Subject responded by running west, into an open rear door of a vacant business located at the western side of the parking area.

Believing the Subject would continue running through the westside of the business, Officer B holstered his/her pistol and ran to the western edge of the property, stating, "He's running, partner," to Officer A. Officer A followed Officer B, then, realizing the Subject had not exited on the westside of the building, redeployed back toward the eastern edge of the same portion of the building. According to Officer A, Officer B directed him/her to the eastside. According to Officer B, to ensure both corners were contained, he/she directed Officer A to the east corner in the event the suspect exited that side.

As Officer A moved east, an occupant of the building, identified as Witness C, exited and ran in Officer A's direction, south toward the alley.

According to Witness C, he/she had observed the Subject run into the building armed with a pistol, causing him/her to fear for his/her safety and flee into the parking area. As Witness C reached the alley, Officer B heard him exclaim that the Subject was armed with a gun.

According to Officer A, as he/she moved east, he/she also heard someone refer to a "gun," causing him/her to feel a heightened level of alertness but was uncertain who may have been armed. Officer A unholstered his/her pistol as Witness C ran south in his/her direction. As observed on body-worn video (BWV), when Officer A moved east

into the parking area, he/she briefly raised his/her pistol to a low-ready position as he/she observed Witness C advancing in his/her direction. According to Officer A, he/she immediately realized that Witness C was not the same person he/she had observed run into the building.

Officer A then heard someone running through the parking area to the east. Officer A looked in that direction and observed the Subject, who had exited the building, running southeast toward a Toyota van that was parked on the southeast portion of the lot. Officer A repeatedly ordered the Subject to put his hands up. Immediately prior to the Subject retreating behind the Toyota van, Officer A observed a pistol in the Subject's right hand. Officer A then lost sight of the Subject behind the Toyota van.

The Subject was observed on BWV raising his right arm and pointing the pistol toward Officer A as he crossed the parking area toward the Toyota van.

As the Subject took cover behind the Toyota van, Officer A continued to give commands to drop the gun and show his hands.

Moments after the Subject moved behind the Toyota van, he reemerged behind a gray BMW convertible that was parked immediately south of the Toyota van. According to Officer A, he/she observed the Subject raise his body from behind that vehicle, exposing his head and torso. The Subject was facing Officer A, standing in a crouched position, holding the pistol in his right hand at chest level, with the barrel of the pistol pointed directly at him/her.

Officer A recalled fearing for his/her life, believing the Subject was going to shoot him/her. Officer A responded by raising his/her pistol in a two-handed grip and firing one round at the Subject, in an easterly direction, from an approximate distance of 21 feet, missing the Subject. Officer A then observed the Subject immediately duck behind the BMW convertible, again out of his/her (Officer A's) view.

Footage from Officer A's BWV depicted the Subject crouched behind the BMW convertible holding the pistol in his right hand in front of his chest, immediately prior to Officer A firing.

Officer A maintained a position of cover to the rear of the Toyota van and began giving the Subject repeated commands to drop the gun and to put his hands up as the Subject crouched behind the BMW convertible. The Subject then moved to the southside of the BMW convertible along the alley.

Simultaneously, Officer A moved south along the westside of the parking area toward the alley with his/her pistol in his/her right hand and police radio in his/her left. In footage from his/her BWV, Officer B is heard asking Witness C, "He's got a gun?" immediately followed by the sound of a gunshot. Officer B moved to the rear passenger side of the police vehicle and holstered his/her pistol in order to broadcast.

According to Officer B, he/she observed the Subject run from the building as he/she began to move back toward the police vehicle. Officer B then heard the gunshot but did

not observe who had fired. At 0829:54 hours, approximately two seconds after the OIS, BWV footage depicted Officer B appear to attempt to broadcast two separate times on his/her police radio but abruptly stop. According to Officer B, each time he/she tried to broadcast, he/she was interrupted by a Communications Division (CD) transmission.

Officer B then observed the Subject holding a pistol and crouching in the alley, next to the BMW convertible. Officer B again unholstered his/her pistol to a one-handed grip and maintained a position of cover behind the police vehicle.

At 0830:20 hours, as Officer A continued to give the Subject commands, Officer B broadcast, "I'm going to have shots fired, officer needs help."

Officer A gave repeated commands to the Subject to show his hands. According to Officer A, the Subject began speaking; however, Officer A was unsure of what was being said due to the elevated level of his/her (Officer A's) voice commands and his/her level of fear at that moment. Officer A also began yelling at the Subject to drop the gun, still with the belief the Subject would try to shoot him/her. Although Officer A was unable to view the gun at that time and was unsure of where it was pointed, he/she did have an intermittent view of the top of the Subject's head and shoulders over the BMW convertible. At one point, Officer A heard the Subject yell, "You drop yours and I'll drop mine!"

Officer A then observed the Subject hold his hands in the air with one hand empty. In the other hand, he held the pistol up in the air by the tip of the handle. Officer A believed that the Subject was attempting to demonstrate that he wasn't pointing the pistol at the officers and, according to Officer A, the Subject stated that he would not shoot.

Officers A and B observed the Subject manually cycle the slide of his pistol to the rear, ejecting a live round onto the ground. Moments later, approximately 50 seconds following the OIS, the officers observed the Subject throw the pistol over a wall on the south side of the alley. The pistol ultimately landed on top of the roof of a building directly south of the Subject's position.

After discarding the pistol, the Subject immediately fled on foot, eastbound in the alley. According to Officer A, he/she observed that the Subject's hands were free. The Subject also removed his black outer shirt, exposing his waistband to the officers, causing Officer A to feel that he was no longer armed. Both officers holstered their pistols and began to pursue on foot. The officers communicated to one another that the Subject was running. Officer A advised his/her partner that the Subject no longer had the gun.

Officer B broadcast that the officers were in foot pursuit in the alley. According to both officers, their intent was to remain in visual contact of the Subject, knowing that additional resources were responding to their location to assist in his containment.

The Subject fled approximately 200 feet. As he began to tire, he came to a stop, then turned and faced the officers. Officer A unholstered his/her TASER and warned the Subject he would be tased if he did not get on the ground. Officer B simultaneously unholstered his/her pistol and provided cover in the event the Subject was still armed.

According to Officer A, the Subject appeared to be unarmed but upset and agitated. He was depicted on BWV intermittently stepping in the officers' direction and thrusting his hands outward toward the officers in an agitated manner. He repeatedly stated, "I can't do it," in response to Officer A's commands to get on the ground. The Subject advised the officers that he had already served 17 years in prison and at one point stated, "Shoot me!"

The Subject did not comply with Officer A's repeated commands to stop and get on the ground and began walking south, away from the officers. According to Officer A, to avoid an additional use of force, he/she began attempts to develop a rapport with the Subject to allow him to calm down and submit to being taken into custody. Officer A repeatedly encouraged the Subject to relax and asked that he/she (Officer A) be allowed to talk to him.

The Subject became increasingly agitated and continued south on the west sidewalk. He stopped on the sidewalk in front of the apartment building immediately south of the alley. The Subject began to smoke a cigarette, throwing the remainder of the cigarette package to the ground along with several cellular telephones from his pockets.

At 0832:30 hours, Officers F and G arrived at scene. They stopped their police vehicle in southbound lanes of traffic and exited.

According to Officer F, he/she observed Officer A speaking with the Subject. Officer F described the Subject's behavior as aggressive and pacing back and forth, yelling and screaming. Officer F equipped him/herself with a 40-mm Less-Lethal Launcher (LLL) from the center rack of the police vehicle in case the Subject became violent. Officer F immediately warned the Subject that he would be shot with the 40-mm LLL if he did not comply and that it could cause him to be injured. Officer F approached Officer A's position, east of the Subject, and stood by as Officer A continued to communicate with the Subject.

As depicted on BWV, Officer G unholstered his/her pistol upon exiting the officers' vehicle due to the nature of the help call and the broadcast information that shots had been fired and a suspect was possibly armed with a gun. Officer G held the pistol with a two-handed grip at a low-ready position, then transitioned to a one-handed grip, and walked to the sidewalk north of the Subject's position, where he/she spoke with Officer B. Officer B advised him/her that the Subject had been armed with a gun that was thrown over a fence in the alley. Officer B requested that Officer G direct a unit to respond in the alley where the incident began.

As Officer A continued to communicate with the Subject, additional uniformed units began to arrive at scene, including Officers C, D, E, H, I, J, K, L, M, N, O, and P.

As officers began to arrive, they established containment around the Subject, which included less-lethal resources positioned north and south of his position, on the street and sidewalk.

During the stand-off with the Subject, plain-clothed Detective A arrived at scene. According to Detective A, he/she immediately recognized the Subject as the suspect involved in an active robbery investigation and began to formulate an arrest team of officers who were positioned on the street, east of the Subject.

Sergeant A arrived at 0835:35 hours. He/she immediately contacted Detective A and advised him/her that he/she would assume supervisory duties and provided Detective A with his/her unit designation. At approximately 0836 hours, Detective A advised CD that Sergeant A was the Incident Commander (IC).

According to Sergeant A, he/she began assessing the situation and determined that adequate less-lethal resources were present and Officer G was in place as a designated cover officer. He/she also observed that officers were available as an arrest team. Sergeant A contacted Officer B and received information as to what had occurred. He/she directed Officer A to issue an additional warning to the Subject that less-lethal options may be used.

According to Sergeant A, although he/she believed that Officer A may have been involved in an OIS, he/she observed that Officer A had developed a rapport with the Subject and believed that the appropriate tactic was to allow Officer A time to continue verbalizing with the Subject, to de-escalate the situation. Sergeant A began confirming specific roles with the arrest team. He/she assigned Officers C and E to take control of the Subject's arms when directed to do so. Officers I and N were to approach and assist if needed. Sergeant A specifically designated Officer F as a less-lethal component of the arrest team with the 40-mm LLL.

After the plan was conveyed, Sergeant A instructed officers that time would be given to allow for Officer A to continue efforts to communicate with the Subject and officers were not to approach until directed. Sergeant A conferred with Sergeant B, who had arrived at scene, that an adequate perimeter was established. As requested by Sergeant A, Sergeant B assigned Officer P to relieve Officer A with a TASER to minimize the potential for Officer A to be involved in any additional use of force.

During the approximate 18-minute standoff, the Subject failed to comply with repeated commands to turn and place his hands behind his back. In an additional effort to de-escalate the situation and gain compliance from the Subject, he was given an opportunity to place a phone call to his mother. However, he continued to fail to respond to commands. According to Sergeant A, when he/she believed that no further progress was being made, he/she instructed the arrest team to approach and take the Subject into custody.

At approximately 0847 hours, Officers C and E approached the left and right side of the Subject, who was facing east toward the officers. The Subject immediately pulled away

from the officers as they acquired firm grips of his arms. Officer C was heard stating, "Give me your arm," as the Subject appeared to tense his body and force his arms to his front while lowering his bodyweight toward the ground.

Officer E took a firm grip of the Subject's right wrist with both hands. He/she transitioned his/her left hand and acquired a grip of the Subject's right bicep and pushed the right arm behind the Subject's back.

Officer D had also approached the Subject's right side and stood to the left of Officer E, behind the Subject. He/she assisted in controlling the Subject's right arm by gripping the Subject's right forearm with his/her left hand and right bicep with his/her right hand. Officer D then transitioned his/her left hand to the Subject's right wrist as the officers pulled the right arm behind the Subject's back. He/she then gripped the Subject's right forearm and assisted Officer E in holding the right arm at the small of the back for handcuffing.

Simultaneously, Officer C grasped the Subject's left wrist with his/her left hand and the Subject's left forearm with his/her right hand. As the Subject pulled his arms to his front, Officer C pulled the Subject's left arm away from his body. He/she then took a grip of the Subject's upper arm with his/her left hand and pushed the Subject's left hand behind his back. Officers C and E each applied rearward pressure with their shoulders pressing the Subject's back against a wall.

As the officers secured the Subject's arms, Officer K approached from the front, leaned down, and grabbed the Subject's right pant leg. According to Officer K, he/she did so upon observing the Subject begin to resist the officers' efforts to take him into custody. Based on Officer K's prior experience, lifting the Subject's leg would interfere with the Subject's balance, resulting in less resistance, allowing officers to more easily handcuff him. Upon grabbing the pant leg, Officer K was instructed to release it by Sergeant A. He/she immediately did so and stood to the side as the Subject was taken into custody.

Officer B also approached the Subject's left side. He/she assisted Officer C in securing the Subject's left arm by taking a grip of the left forearm with his/her left hand and assisting in moving it behind the Subject's back. At approximately 0848 hours, Officer B applied a handcuff to the Subject's left wrist, then completed the handcuffing by attaching a second pair of handcuffs and securing the right wrist.

Officer A continued to verbalize with the Subject as he was being handcuffed, encouraging him to relax and stop resisting. Sergeant A monitored the arrest team and ensured that a minimum number of officers were in contact with the Subject throughout the handcuffing process.

Once the Subject was in custody, Officer C searched him. The Subject was subsequently transported to North Hollywood Police Station by Officers D and P. Officers C and I followed them to the station as directed by Sergeant A.

At approximately 0848 hours, Sergeant A separated Officer A and identified him/her as being involved in an OIS. He/she assigned Sergeant B to obtain a Public Safety Statement (PSS) from Officer A and monitor him. Sergeant A then removed Officer B from the scene and assigned Detective A to obtain a PSS and monitor him/her.

Sergeant A directed officers to secure the scene, then established a command post and notified the North Hollywood Division Watch Commander of the OIS.

Police Officer Q accessed the roof of the building near the alley. He/she located and monitored the pistol thrown by the Subject.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	No	No
Officer B	Yes	Yes	Yes	No	No
Officer C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	Yes	Yes
Sergeant A	Yes	Yes	Yes	Yes	Yes
Detective A	N/A	N/A	N/A	N/A	N/A

Los Angeles Board of Police Commissioners’ (BOPC) Findings

The BOPC reviews each Categorical Use of Force (CUOF) 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 C, D, E, and Sergeant A’s tactics to warrant a Tactical Debrief. The BOPC found Officers A, B, and Detective A’s tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Officers B, C, D, and E’s non-lethal use of force to be In Policy.

D. Lethal Use of Force

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

Basis for Findings

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

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers. (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;

- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

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

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

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

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

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

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

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

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

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

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

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

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

Requirement to Intercede When Excessive Force is Observed: An officer shall

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

Definitions

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

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

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

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

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.” The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

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

- Loss of consciousness;
- Concussion;

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

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

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

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

A. Tactics

Tactical De-Escalation Techniques

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

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

Planning – Officers A and B had been partners for approximately two years, during which they had discussed tactics. Arriving at the scene, Sergeant A assumed IC, designated roles, and developed a plan to safely apprehend the Subject using minimal force, if necessary.

Assessment – Arriving at the scene, Detective A assessed the need to initiate command and control. He/she positioned officers and began to designate roles. Assuming the role of IC, Sergeant A continually assessed the situation, ensuring only the needed personnel were involved in the Subject's apprehension. While Sergeant A believed that Officer A may have been involved in an OIS, he/she opined that Officer A had developed a rapport with the Subject and elected to have him/her continue his/her de-escalation efforts.

Time – After the OIS, Officers A and B maintained distance while attempting to obtain the Subject’s surrender. Officers A and B also maintained distance after the foot pursuit, as they attempted to establish a rapport with the Subject and waited for additional resources. For approximately 18 minutes, officers and supervisors maintained distance while waiting for the Subject to surrender. When an impasse was reached, officers apprehended the Subject using minimal non-lethal force.

Redeployment and/or Containment – Observing the Subject running through the parking lot, Officer A positioned himself/herself between his/her police vehicle and a Toyota van. As the OIS occurred, Officer A was moving toward the Toyota van for cover. According to Officer A, he/she was positioned approximately five to eight feet behind and to the left of the Toyota van. According to Officers A and B, when the Subject fled in the alley, they followed him in containment mode. When he stopped in front of the apartment building, officers contained him, allowing him to surrender. During the standoff, Detective A and Sergeant A redeployed officers to obtain a tactical advantage.

Other Resources – After the OIS, Officer B broadcast an officer “help” call, prompting the response of numerous Department personnel. Supervisors used the additional resources to de-escalate the situation and apprehend the Subject, using minimal non-lethal force.

Lines of Communication – Officer B did not communicate Witness A’s information to Officer A. Before entering the alley, Officers A and B did not advise CD of their location and the nature of their activity. Before the OIS, Officer A ordered the Subject to raise his hands. After the OIS, Officer A attempted to convince the Subject to surrender, assuring him that he would not be shot at again if he discarded the pistol. After a brief foot pursuit, both officers attempted to obtain the Subject’s surrender. During an approximately 18-minute standoff, Officer A worked to establish a rapport with him. During the standoff, officers attempted to de-escalate by allowing the Subject to speak with his mother. While he resisted being handcuffed, only minimal non-lethal force was needed at that point to overcome his resistance.

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

1. Code Six

Officers A and B did not broadcast their incident and location (Code Six) when hailed by Witness A. According to Officer A, he/she believed that Officer B had broadcast the officers’ Code Six location. According to Officer B, he/she was not certain if they went Code Six but recalled advising Officer A that they were on a citizen flag down.

The BOPC noted that after a very brief conversation with Witness A, Officers A and B entered the alley without advising CD of their location or the nature of their activity. During the Use of Force Review Board (UOFRB) hearing, FID

investigators presented a timeline that showed that North Hollywood Division's radio frequency was occupied, with intermittent breaks in transmissions, until Officer B broadcast the "help" call. Despite the heavy radio traffic, the BOPC opined that Officers A and B hastily entered the alley without obtaining sufficient information, including the location's address. This placed Officers A and B at a significant tactical disadvantage as evidenced by the fact that Officer B seemed uncertain as to their location when he/she broadcast the officer "help" call. At the point when the OIS occurred, the officers were essentially "alone on an island." Had they taken the time to obtain additional information from Witness A, they could have placed themselves Code Six before entering the alley and encountering the Subject.

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

2. Tactical Communications/Tactical Planning

After speaking with Witness A, Officer B drove into the alley without communicating with his/her partner. According to Officer B, he/she recalled advising Officer A that they were on a citizen flag down. According to Officer A, he/she recalled hearing "struggle," but no further details. When officers attempted to contact the Subject, he placed his hands in his pockets and fled into a business. As Officer B ran toward the front of the business, Officer A asked, "What do we have?" Officer B responded, "I don't know." Officer A then asked, "What is it?" to which Officer B replied, "It's going to be in here." Officer A then heard Witness C say "gun." Shortly after, he/she observed the Subject run through the parking lot. As the Subject ran behind a Toyota van, Officer A observed that he was holding a pistol; however, he/she did not announce "gun" to his/her partner. After the OIS, Officer B broadcast an officer "help" call, advising CD of his/her general location. However, before the broadcast, Officer B asked a citizen for the address. After a short standoff, the Subject threw his pistol and then fled eastbound through the alley. While Officer A advised that the Subject was running and Officer B advised that he had discarded the pistol, there was no other communication between the officers. However, during their FID interviews, both officers stated they were in containment mode.

The BOPC noted that from the onset, Officers A and B failed to communicate with each other and Witness A. Before entering the alley, Officers A and B did not take time to obtain specific information from Witness A, such as the address, what Witness A had observed, the Subject's description, and if he was armed. Nor did they take time to discuss what they were dealing with and how they would respond. Probably one of the most telling aspects of their lack of planning and communication was when Officer A asked, "What do we have?" To which Officer B responded, "I don't know." Equally as troubling was the fact that Officer B did not know the location's address. The officers' lack of communication and

planning continued throughout the incident. While the BOPC recognized the dynamic nature of this incident, they opined that Officer A and B's lack of planning and communication placed them at a significant tactical disadvantage.

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

3. Cover/Concealment

Officer A heard someone state, "gun." Because he/she did not immediately know who was armed, or where they were, he/she was unsure where to seek cover. Parked vehicles in and around the location partially obstructed his/her view of the lot. Observing the Subject running through the parking lot, Officer A positioned himself/herself between his/her police vehicle and a Toyota van. When the Subject ran behind the Toyota van, Officer A moved left to observe him through the Toyota van's windows. Officer A wanted to be able to reposition if the Subject emerged from behind the vehicles. As the OIS occurred, Officer A was moving toward the Toyota van for cover. According to Officer A, he/she was positioned approximately five to eight feet behind and to the left of the Toyota van. When the Subject stopped in the gasoline station, Officers A and B ordered him to surrender. Based on Officer A's training and experience, he/she believed it was possible that the Subject could have another weapon. While the officers maintained distance, they did not use available cover. When the Subject stopped in front of the apartment building, Officers A and B were joined by several officers. Officers A, B, C, D, E, K; Sergeant A; and additional personnel contained the Subject on the sidewalk but did not make use of available cover.

The BOPC discussed the officers' use of cover during this incident. The BOPC noted that Officer A was out in the open when he/she observed the Subject running through the parking lot. While he/she attempted to use the angle of the Toyota van as cover, the BOPC noted that Officer A ran past the open passenger door of his/her police vehicle. The BOPC would have preferred that he/she had used his/her ballistic door panel instead of continuing forward toward the Toyota van. The BOPC also noted that after the OIS, Officer B ran past a parked car, toward his/her police vehicle. Officer B then stopped and remained in the open as he/she attempted to determine his/her location before taking cover behind his/her police vehicle.

The BOPC noted that when the Subject stopped in the gasoline station, neither officer used available cover. While both officers knew he had discarded the pistol, Officer A opined that he could have had an additional weapon. The BOPC also noted that by using cover, the officers could have mitigated any risk of crossfire. Also, the BOPC would have preferred that Officers A and B had taken a position behind the utility pole, light pole, or corner of the apartment's block wall while waiting for additional units to arrive.

In terms of Officer C, D, E, and Sergeant A's position during the standoff, the BOPC would have preferred they used available cover, such as police vehicles and or ballistic shields. However, the BOPC noted the Subject's demeanor at this point in the incident. While he was refusing to surrender, the Subject had ostensibly realized he would be apprehended and was simply delaying the inevitable. While any suspect can be armed, the Subject was wearing a tight ribbed tank top tucked into his pants and had emptied several items from his pockets. Based on the totality of the circumstances, the BOPC opined that the officers' actions were not a substantial deviation from approved Department tactical training and were best addressed through training.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were a substantial deviation, without justification, from approved Department tactical training. The BOPC also determined that the actions of Officers C, D, E, and Sergeant A were not a substantial deviation from approved Department tactical training.

4. Body Armor

Detective A arrived at the scene at 0834:33 hours; he/she did not don his/her tactical vest with ballistic protection. He/she immediately recognized the Subject as a suspect in an active robbery investigation. Detective A attempted to communicate with the Subject, referring to him by his gang moniker. Detective A also began designating roles, positioning officers, and formulating an arrest team. At 0835:35 hours, Sergeant A arrived at the scene. Sergeant A advised Detective A that he/she would assume command and control of the incident. At 0836:30, Detective A returned to his/her police vehicle and donned his/her tactical vest.

The BOPC discussed whether Detective A deviated from approved Department tactical training. The BOPC noted that per Use of Force-Tactics Directive No. 10.3, Area detectives shall wear body armor or a tactical vest with ballistic protection when they are conducting field enforcement or activity where they are likely to have contact with one or more suspects. Here, Detective A immediately recognized the Subject as a suspect in an active robbery investigation. Before donning his/her tactical vest, Detective A approached officers surrounding the Subject and began positioning officers and designating roles. As such, the BOPC opined that he/she was likely to have contact with a robbery suspect. While the BOPC was complimentary of his/her willingness to respond and initiate command and control, they opined that the amount of time it would have taken to don his/her tactical vest was minimal and could have been done before leaving the station or immediately upon his/her arrival.

In its review of this case, the BOPC determined that Detective A's failure to don body armor prior to involving him/herself in the tactical situation was an unjustified and substantial deviation from applicable Department policy. The

BOPC considered the view of the UOFRB Majority, which had arrived at the same recommendation regarding this issue.

The BOPC found that Detective A arrived at the scene at approximately 08:34:29, exited his/her vehicle, and then stood in the street until approximately 08:34:55, at which time he/she moved up to the group of officers who were then negotiating with the Subject. Detective A stated that he/she was “trying to assess” the situation “[i]n that first minute” following his/her arrival at the incident, prior to giving directions. As such, Detective A had sufficient opportunity to don his/her body armor before becoming involved in the tactical situation. Moreover, Detective A did not articulate a rationale for involving him/herself in the tactical situation without first donning his/her body armor. Rather, he/she told FID that he/she had donned his/her body armor when he/she left the station.

Based on the totality of the circumstances, the BOPC determined by a vote of 3-1 that the tactics employed by Detective A were a substantial deviation, without justification, from approved Department tactical training.

Accordingly, the BOPC found Detective A’s tactics to warrant Administrative Disapproval.

- The BOPC also considered the following:
 - **Arrest/Contact Team** – As the arrest team took hold of the Subject’s arms, Officer K grabbed the Subject’s right pant leg. Sergeant A immediately instructed Officer K to release his/her grip; Officer K complied. Officer K was not a member of the arrest team; however, he/she believed that the Subject was resisting and lifting his leg would allow officers to handcuff him. While his/her actions were well intended, Officer K should not have attempted to assist the arrest team.
 - **Basic Firearms Safety Rules** – After the OIS, the Subject maintained possession of the pistol. According to Officer A, while ordering the Subject to surrender, his/her finger fluctuated between the frame and the trigger as he/she was up on target.

Because BWV did not capture Officer A’s finger on the trigger, the BOPC could not determine if, when, and how long this occurred. Based on the totality of the circumstances, the BOPC opined that this was best addressed through training.

- **Conflicting Commands/Simultaneous Non-Conflicting Commands** – After the OIS, Officers A and B gave simultaneous, non-conflicting commands to the Subject, telling him to show his hands and to get on the ground. Alternatively, one officer could have given commands. While ordering the Subject to surrender, Officer A repeatedly told him to put his hands up; however, he/she

also told the Subject several times to “put ‘em down.” The BOPC opined that Officer A was trying to tell the Subject to put the gun down and raise his hands, but his/her communications skills were affected by the stress of this incident.

- **Profanity** – After the OIS and foot pursuit, Officer A used profanity while ordering the Subject to surrender. Officer B used profanity when ordering him to get on the ground. While the officers’ use of profanity was not derogatory and intended to gain compliance, as a best practice, officers should avoid its use.
- **Preservation of Evidence** – To secure the crime scene, Officer M moved Officer A and B’s police vehicle to the mouth of the alley; he/she believed it was the only resource he/she had at the time to prevent pedestrian and vehicular traffic from entering the scene.
- **Non-Medical Face Coverings** – Officers C, D, E, and M were not wearing non-medical face coverings at the scene as directed by the Chief in May 2020.

These topics were to be discussed at the Tactical Debrief.

Command and Control

- During the stand-off with the Subject, Detective A arrived at the scene. Hearing the officer “help” call broadcast, Detective A had deployed from North Hollywood station. Because he/she believed another unit had declared incident command, Detective A did not declare himself/herself as the IC. According to Detective A, he/she immediately recognized the Subject as a suspect in an active robbery investigation. Detective A attempted to communicate with the Subject, referring to him by his gang moniker. Detective A also began designating roles, positioning officers, and formulating an arrest team. At 0835:35 hours, Sergeant A arrived at the scene. Sergeant A advised Detective A that he/she would assume command and control of the incident. At approximately 0836 hours, Detective A advised CD that Sergeant A was the IC.

According to Sergeant A, he/she began assessing the situation. He/she determined that adequate less-lethal resources were present and Officer G was in place as a designated cover officer. Speaking with Officer B, Sergeant A learned what had occurred before he/she arrived. Sergeant A directed Officer A to issue an additional warning to the Subject that less-lethal options may be used. According to Sergeant A, Officer A had developed a rapport with the Subject. While Officer A may have been involved in the OIS, Sergeant A believed that the appropriate tactic was to allow Officer A to continue speaking with the Subject to de-escalate the situation. Sergeant A advised Officers C and E that they would take control of the Subject’s arms when the arrest team approached him. He/she also directed Officers I and N to approach with the arrest team to assist in the Subject’s apprehension, if needed. Sergeant A

designated Officer F as a less-lethal component of the arrest team with the 40-mm LLL.

At approximately 0838 hours, Sergeant B arrived on the scene and assessed that an adequate perimeter had been established. Sergeant B did not place himself/herself Code Six upon his/her arrival because his/her Mobile Digital Computer was logged off and he/she wanted to keep the radio frequency clear. Sergeant B directed peripheral officers to utilize available cover and, at Sergeant A's direction, replaced Officer A with Officer P as the TASER officer.

After the plan was conveyed, Sergeant A instructed officers that Officer A would be allowed time to communicate with the Subject and officers were not to approach until directed. Sergeant A conferred with Sergeant B that an adequate perimeter was established and directed Sergeant B to assign Officer P as the TASER officer, to minimize the potential for Officer A to be involved in an additional UOF. Believing they had reached an impasse, Sergeant A instructed the arrest team to approach the Subject.

After the Subject was taken into custody, Sergeant A separated Officer A and confirmed he/she was involved in the OIS. Sergeant A directed Sergeant B to monitor Officer A and obtain his/her PSS. Sergeant A then separated Officer B and directed Detective A to monitor him/her and obtain his/her Public Safety Statement (PSS). Sergeant A directed officers to secure the scene, established a command post, and notified Sergeant C of the OIS.

At approximately 0852 hours, Sergeant C notified the Department Operations Center of the Categorical Use of Force (CUOF). Sergeant C monitored Officers C, D, E, I, P, and Sergeant A at North Hollywood station until relieved.

The overall actions of Sergeants A, B, C, and Detective A were consistent with Department supervisory training and the BOPC's expectations of field supervisors 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 the actions of Officers C, D, E, and Sergeant A were not a substantial deviation from approved Department tactical training. The BOPC also determined that the actions of Officers A, B, and Detective A were a substantial deviation, without justification, from approved Department tactical training, requiring a finding of Administrative Disapproval.

Each tactical incident also 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.

Accordingly, the BOPC found Officers C, D, E, and Sergeant A's tactics to warrant a Tactical Debrief. The BOPC found Officers A, B, and Detective A's tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting

- **Officer B – [1st Occurrence]**

At 0829:35 hours, Officer B attempted to contact the Subject. The Subject looked in the officers' direction, placed his hands in his pockets, and abruptly began to walk west, toward the rear of the building. According to Officer B, based on his/her observations of the Subject's behavior, he/she believed that he was possibly armed. Believing the situation could escalate to the point where deadly force may be justified, Officer B unholstered his/her service pistol as he/she directed the Subject not to reach into his pockets.

- **Officers A and B – [2nd Occurrence]**

As Officer A moved east, Witness C ran toward him/her. According to Officer A, he/she heard someone refer to a gun. Uncertain as to who was armed, Officer A felt a heightened level of alertness. In response, Officer A unholstered his/her service pistol and briefly raised it as Witness C ran toward him/her. According to Officer A, he/she immediately realized that Witness C was not the Subject and lowered his/her pistol. As Witness C reached the alley, Officer B heard him/her exclaim that the Subject was armed with a pistol. Believing that Witness C may have been the Subject, Officer B unholstered his/her service pistol.

- **Officer B – [3rd Occurrence]**

The Subject moved alongside the BMW convertible toward the alley. Simultaneously, Officer B moved toward the police vehicle. As he/she reached the police vehicle, Officer B unholstered his/her service pistol because he/she observed the Subject manipulating the pistol.

- **Officer B – [4th Occurrence]**

As the Subject turned and faced the officers, Officer A drew his/her TASER and warned the Subject he would be tased if he did not get on the ground. Officer B simultaneously unholstered his/her service pistol, providing lethal cover in case the Subject still had a weapon.

The BOPC assessed Officer A and B's drawing and exhibiting of their service pistols. The BOPC noted that Witness A directed the officers to the rear parking lot, advising that a man was struggling with someone. Investigating, Officer B observed Witness B lying in the fetal position with the Subject standing over or near her. When officers attempted to contact the Subject, he placed his hands into his pockets as he fled into a building. Based on Officer B's observations, the BOPC opined that it was reasonable for Officer B to believe the Subject was armed. Attempting to locate the Subject, both officers heard someone say, "gun" and observed Witness C running. Based on the officers' observations, the BOPC opined that it was reasonable for Officers A and B to believe that the situation may escalate to one involving deadly force. While Officer B briefly holstered his/her service pistol, the BOPC opined that it was reasonable for him/her to unholster his/her service pistol after the OIS. The BOPC noted that Officer B had observed the Subject manipulating the pistol. In terms of his/her fourth drawing/exhibiting, the BOPC noted that Officer B was providing lethal cover for Officer A. As the Subject was refusing to surrender and had not been searched, the BOPC opined that it was reasonable for Officer B to believe that the situation could still escalate to one involving the use of deadly force. The BOPC also noted that officers are trained to provide lethal cover for officers equipped with less-lethal options.

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

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

C. Non-Lethal Use of Force

- **Officer B – Firm Grip**

According to Officer B, the Subject tensed his muscles and resisted officers' attempts to handcuff him. Officer B assisted by applying a firm grip to the Subject's left arm.

- **Officer C – Firm Grip**

According to Officer C, he/she was assigned to the arrest team. When Sergeant A advised the arrest team to move in, Officer C approached and grabbed the Subject's left arm. He resisted, pulling his arms away, and becoming "rigid." To overcome his resistance, Officer C placed a firm grip on the Subject's left arm, moving it behind his back.

- **Officer D – Firm Grip**

According to Officer D, the Subject resisted, keeping his arms in front of him as officers tried to place them behind his back. To overcome the Subject's resistance and assist with handcuffing, Officer D applied a firm grip to his right arm and wrist.

- **Officer E** – Firm Grip and Bodyweight

According to Officer E, Sergeant A assigned him/her as part of the arrest team. When officers approached the Subject, Officer E grabbed his right wrist. The Subject provided resistance by "tensing" his muscles and refusing to submit to arrest. To overcome the Subject's resistance, Officer E continued to apply a firm grip. As he continued to resist, Officer E applied bodyweight to the Subject's shoulder to maintain control.

The BOPC assessed Officer B, C, D, and E's use of non-lethal force. The BOPC noted that throughout the entirety of the contact with the Subject, continuous communication was used to de-escalate the situation. Based on the officers' efforts and the Subject's refusal to surrender, the BOPC opined that it was reasonable for Sergeant A to declare an impasse after 18 minutes of negotiations. The BOPC noted that before sending the arrest team forward, Detective A and Sergeant A had designated roles, ensuring that Officers B, C, D, and E understood their part in the arrest team. The officers' approach was measured and proportional to the resistance the Subject presented. The officers adhered to their assigned roles, minimizing the force used to apprehend the Subject and the number of officers involved in the use of force.

Based upon the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers B, C, D, and E, in the same situation, would reasonably believe that the use of non-lethal force was proportional and objectively reasonable.

Therefore, the BOPC found Officer B, C, D, and E's non-lethal use of force to be In Policy.

D. Lethal Use of Force

Background – According to the FID investigators, the background consisted of several metal dumpsters and an exterior rear west wall.

- **Officer A** – (pistol, one round)

As Officer A continued toward the parking lot, he/she heard someone running. Looking east, Officer A observed the Subject running toward a Toyota van parked in the southeast portion of the lot. Officer A repeatedly ordered him to raise his hands. As the Subject reached the Toyota van, Officer A observed that he was holding a pistol. Officer A then lost sight of the Subject behind the Toyota van. Officer A continued ordering him to raise his hands. The Subject re-emerged from behind a gray BMW convertible parked next to the Toyota van. The Subject raised his body, exposing his head and torso, while facing Officer A. He was holding the pistol in his

right hand at chest level with the muzzle pointed at Officer A. Believing that he/she was going to be shot and killed, Officer A discharged one round at the Subject.

The BOPC assessed Officer A's use of lethal force. The BOPC noted that Officer A observed the Subject holding a pistol as he ran behind the Toyota van. The Subject had ample opportunity to discard the weapon but chose to keep it as he hid behind the vehicles. Despite repeated commands to raise his hands, the Subject chose to point his pistol at Officer A. Based on the Subject's actions, the BOPC opined that it was reasonable for Officer A to believe he posed an imminent deadly threat. The BOPC noted that after discharging his/her round, Officer A ceased firing and allowed the Subject to surrender. While clearly under the stress of the situation, Officer A still tried to de-escalate the situation by ordering the Subject to raise his hands, assuring him that he would not be shot at again if he discarded the pistol.

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

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