

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

OFFICER-INVOLVED SHOOTING – 059-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Mission	10/24/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	10 years, 3 months
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Reason for Police Contact

On Sunday, October 24, 2021, at approximately 2015 hours, Officers A and B were working an crime suppression detail. The officers drove into one of the division's identified problem locations the parking lot of a motel. Upon entering the parking lot, the officers observed the Subject and, based on their observations, opted to conduct a possible Grand Theft Auto investigation. During the investigation, one of the officers informed the Subject he would be patted down for weapons. In response to the officer's statement, the Subject fled on foot. As the officers gave chase, the Subject produced a handgun and pointed it at one of the officers, resulting in an Officer-Involved Shooting (OIS). The Subject was not struck by gunfire and continued running away from the officers. One of the officers established a perimeter with the assistance of an Air Support Division helicopter and a search was conducted to apprehend the Subject; however, the Subject evaded arrest.

On October 30, 2021, the Subject was located and arrested in Harbor Area.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Male, 31 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 (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 October 4, 2022.

Incident Summary

On Sunday, October 24, 2021, Police Officers A and B drove to the parking lot of a motel, which they knew to be problem location for crime. At approximately 2007 hours, Officer B broadcast themselves on scene (Code Six) at the motel.

Officers A and B drove into the parking lot of the motel and made their way around its perimeter. According to Officer B, as Officer A drove, he/she conducted license plate checks on vehicles parked in the parking lot.

The officers traveled north and then west through the parking lot. Both officers observed a white Mercedes Benz sedan with no front license plate backed into a parking stall. According to both officers, it was common for persons with stolen vehicles with no front license plate to back the vehicle into a parking stall at the motel. This tactic was used to prevent or reduce the probability of identifying the status of the vehicle through its rear license plate.

The Subject and his 12-year-old son (Witness A) were sitting inside the white Mercedes Benz. The Subject sat in the driver's seat and Witness A was in the front passenger seat. Both officers observed the two occupants sitting inside the vehicle and decided to investigate further.

Officer A had initially drove past the Mercedes Benz. Officer A decided to reverse their police vehicle and redeploy it to the front of the Mercedes Benz.

At 2015:13 hours, Officer A placed the police vehicle in park and the officers stepped out. The Subject and Witness A also exited the Mercedes Benz. Initially, the Subject stood by the driver's door but then walked to the front of the vehicle, carrying a cellular phone in his left hand. Witness A stood near the front passenger door and did not move or talk during the Subject's contact with the police officers.

Officer A walked up to the Subject and engaged him in conversation, asking him if he was the owner of the vehicle and whether he had his identification. The Subject replied that the Mercedes Benz belonged to his girlfriend, his identification was in his room, and the license plate was in the car. The Subject then walked toward the vehicle's front passenger door. Officer B directed him not to enter the car. The Subject complied with the command.

At 2015:30 hours, Officer B illuminated the Mercedes Benz' interior with his/her flashlight and then walked to the rear of the vehicle where he/she intended to write down the vehicle's license plate number.

The Subject walked toward the police vehicle in an easterly direction and appeared to be headed to the passenger side of the vehicle. Officer A redirected the Subject to the front of the police vehicle. The Subject complied and walked to the front of the police vehicle, and then he turned his body away from the police vehicle. The Subject quickly turned his head toward his right then to his left. The Subject further appeared to put his cellular phone away in his pants pocket.

At 2015:50 hours, Officer A told the Subject that he/she intended to conduct a pat-down search. The Subject quickly turned his head and body to his left, and he then ran east through the parking lot away from Officer A. Officer A chased after the Subject through the parking lot.

Officer A stated that because the incident occurred so quickly, there was not enough time to notify his/her partner that he/she had formed the belief that the Subject was possibly armed with a handgun.

Meanwhile, Officer B was standing at the rear of the Mercedes Benz writing the license plate number on a Field Interview (FI) card. Shortly thereafter, Officer B observed the Subject running away and Officer A chasing after him.

As Officer A ran near the front right quarter panel of his/her police vehicle, he/she unholstered his/her service pistol with his/her left hand and held it in a one-handed grip position as he/she ran after the Subject.

Officer A briefly transitioned his/her pistol into a two-handed grip as he/she ran. Officer A transitioned his/her pistol back into a one-handed grip position and pointed the pistol's muzzle toward the Subject as he ran east through the parking lot.

Surveillance video from the motel depicts the Subject running east away from Officer A, toward the north gate. While running away from the officers, an object fell from the Subject's body. The investigation revealed that the object was a cellular phone. The Subject then ran past the gate. The surveillance video depicts the Subject rotate his torso and head backwards, while raising and extending his right arm to shoulder level and pointing it toward Officer A.

Officer A transitioned to a two-handed grip position. According to Officer A, he/she observed the Subject point a handgun in his/her direction and believed the Subject was going to shoot him. To protect himself/herself and his/her partner, Officer A used a two-handed grip, aimed his/her pistol toward the Subject, and fired two rounds in a southeasterly direction, from an approximate increasing distance of 33 to 38 feet.

Seconds after the foot pursuit began, Officer B ran through the parking lot in an easterly direction toward his/her partner's locations.

According to Officer B, he/she observed Officer A holding his/her pistol and fire two rounds. As Officer B approached the gate, he/she moved closer to the building's wall. He/she slowed down to a walk and then proceeded east toward the gate. Due to the building's curvature and his/her position, Officer B could not see the Subject or what Officer A was shooting at.

Immediately following Officer A discharging his/her second round, the Subject fell onto the ground. The Subject fell onto his upper torso area and slid forward a short distance before standing up. The Subject continued running in a southeasterly direction through the motel's east parking lot. Surveillance video captured the image of a spark on the ground east of where the Subject fell to the ground. The investigation determined the handgun the Subject was in possession of was likely the spark depicted in the video as it fell to the ground.

In Officer A's opinion, he/she believed the Subject was still armed with a handgun. Moreover, he/she knew the Subject was approaching a residential area. Fearing the Subject could possibly enter an apartment to either barricade himself or hold someone hostage, Officer A opted to continue running after him. Officer A did not communicate his/her decision to continue a foot pursuit of the Subject to Officer B.

Officer A yelled at the Subject to stop as he/she chased him through the motel's east parking lot. The Subject did not comply and continued running.

While on the move, Officer A used a two-handed grip, aimed his/her pistol, and fired a third round at the Subject in a southeasterly direction from an approximate distance of 75 feet. The Subject continued running in a southeasterly direction through Motel A's east parking lot. Officer B was approximately 49 feet away from Officer A.

Meanwhile, Officer B continued moving toward Officer A's location. Officer B momentarily lost sight of his/her partner and heard two additional shots.

After Officer A fired his/her third round, he/she continued to chase the Subject. According to Officer A, he/she observed the Subject make eye contact with him/her and blade his body with his hands in a "close contact position." Based on the Subject's body posture and movements, Officer A believed the Subject was intending to shoot at him/her. Officer A stopped, took a two-handed shooting stance, aimed his/her pistol, and fired a fourth and final round at the Subject in a southeasterly direction from an approximate distance of 75 feet.

The Subject continued running onto the east sidewalk and then ran south. Officer A ran through the motel's east parking lot, while holding his/her pistol in his/her left hand in a

one-handed grip position. Officer A's left arm swung up and down as he/she ran and twice raised his/her pistol as he/she gave the Subject commands to stop.

At 2016:06 hours, while running south on the east sidewalk, Officer A retrieved his/her radio with his/her right hand and broadcast, "Officer needs help, shots fired, officer needs help." Simultaneously, a Communications Division (CD) operator was broadcasting, resulting in Officer A's radio transmission not being heard or recorded. However, Officer A's body-worn video (BWV) captured him/her turning his/her torso and yelling to Officer B, "Hey, get the gun! Get the gun!" According to Officer A, he/she did not observe the gun on the ground until after he/she passed by it during his/her foot pursuit and following his/her fourth round being discharged. Officer A continued running on the sidewalk after the Subject.

When the incident occurred, Witnesses B and C were near their parked vehicle. Witness C was near the passenger side of the vehicle and Witness B was standing near the driver's side door. Witness C stated that she heard four or five shots but did not see the shooting. Witness B saw the Subject running toward him and Witness C. Witness B saw the Subject trip and fall, with a gun falling out of his waist. The Subject got back up and continued running away from the officer. Witness B stated that he saw the officer fire two to three shots as he/she ran after the Subject.

In response to Officer A's request, Officer B replied, "I got it, I got it" and picked up a black semi-automatic handgun from the motel's east parking lot with his/her right hand. Officer B then ran to the east sidewalk and proceeded south.

At 2016:21 hours, Officer B was on the sidewalk and yelled out to Officer A. At this point in the foot pursuit, Officer A was approximately 185 feet south of Officer B. According to Officer B, he/she maintained sight of Officer A as they ran on the sidewalk. Officer A continued running south and again attempted to broadcast "Officer needs help, shots fired." This broadcast was not received by Communications Division (CD). Officer B broadcast a help call and stated that he/she was in a foot pursuit with the Subject. With his/her radio in his/her left hand and the Subject's pistol in his/her right hand, Officer B continued running south on the sidewalk toward his/her partner's location. After closing the distance between him/her and his/her partner, Officer B positioned himself/herself on the east side of the street, north of Officer A's location and maintained that position for the perimeter.

Multiple units responded to the help call, including Sergeants A, B, and C; Officers C, D, E, F, G, H, I, and J; and Air Support Division Officers K and L in the helicopter (air unit).

At 2016:23 hours, Officer A's BWV captured him/her ordering the Subject to stop, but the Subject did not comply. Officer A lost sight of the Subject near an apartment complex.

Officer A positioned himself/herself on the northwest corner near the apartment building. Officer B remained in front of the apartment building, just north of Officer A, while in the line of sight of each other. The officers held their positions and waited for additional units to form a perimeter.

At 2017:16 hours, BWV captured Officer A briefly holster his/her pistol. He/she then unholstered his/her pistol again and remained at the northwest corner.

At 2019:10 hours, Officers C and D arrived at scene and parked their police vehicle facing west toward the motel's south parking lot. Witnesses B and C were standing near their vehicle in the east parking lot. Officers C and D met with them and were advised they had witnessed portions of the OIS.

Officer D advised Officer C that he/she was going to check the north parking lot for evidence, while Officer C remained at the police vehicle. Officer D went to the northern driveway and located Witness A in the driveway accompanied by an unidentified witness. Officer D directed them to the motel's east parking lot.

At 2019:30 hours, Officer A redeployed to a position east of a vehicle parked on the street and used it for cover.

At 2021:48 hours, Officers E and F arrived at the motel. Officer C directed them to relieve Officer D in the parking lot, which they did. The officers then established containment of the crime scene. Officer E spoke with Witness A. Witness A and the unidentified witness walked into the motel's lobby. Officer F met with Witness A in the lobby and remained with him.

At 2022:42 hours, Sergeant A arrived at scene. At 2023:50 hours, Sergeant A declared himself/herself the Incident Commander.

At 2023:51 hours, Sergeant B arrived at scene and positioned himself/herself near the apartment building.

At 2025:32 hours, Officer B advised Officer A that he/she would secure the Subject's handgun. Officer B then walked to Sergeant A and informed him/her he/she needed to secure the Subject's handgun. Sergeant A directed Officer B to secure the handgun in the trunk of his/her police vehicle. Officer B did so in the presence of Sergeants A and B. Officer B remained near the apartment building.

At 2034:37 hours, Officer A informed Sergeant B that he/she and Officer B were involved in the OIS. Sergeant B handed Officer A the keys to his/her police vehicle and directed the officers to respond to the Command Post (CP). Officers A and B drove Sergeant B's police vehicle to the north driveway of the motel. Officers A and B then walked through the crime scene. Officer A directed Officer E to secure the evidence in

the east parking lot. He/she then directed Officer F to remain with Witness A in the Motel A lobby, which he/she did.

Sergeant A established the CP. Sergeant C initially went to the CP and then to the crime scene at the motel parking lot in search of Officers A and B. Sergeant C located Officers A and B at Motel A and transported them to the CP.

Once at the motel, Sergeant C directed Officer F to escort Witness A to the CP, which he/she did.

At 2103:02 hours, Officers E and F transported Witness A to Mission Community Police Station and escorted him to the officers' report writing room and monitored him. Witness A's relatives responded to Mission Community Police Station. Officer E spoke with them in the lobby. At approximately 2150 hours, Officer E released Witness A to a family member.

Metropolitan Division K-9 personnel responded to the scene and searched for the Subject but did not locate him.

BWV and Digital In-Car Video (DICV) Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	No	No
Officer B	Yes	Yes	Yes	No	No

Los Angeles Board of Police Commissioners' 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 A and B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer A's shots one, two, and three to be In Policy and shot four to be Out of 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 – According to Officers A and B, this was the second time they had worked together as partners. During their time as partners, they had discussed tactics, contact and cover, weapon systems, and their knowledge of high-crime areas. On the day of this incident, Officers A and B focused their efforts on patrolling areas identified in daily crime maps as experiencing an increase in criminal activity. The motel where this incident occurred was in one of those identified areas. Additionally, both officers had made several arrests at the motel for various felony crimes, including auto theft. To identify stolen vehicles, Officers A and B discussed querying vehicles parked in the motel's lot.

Assessment – Based on their observations of the Mercedes, combined with their knowledge of criminal activity at the motel, Officers A and B believed that the Mercedes may be stolen. Officers A and B decided to initiate a stolen vehicle investigation. Observing that the Mercedes had two occupants, the officers determined it was safer to contact the occupants at

that point as opposed to continuing past it. Based on the Subject's demeanor, Officer A assessed the need to conduct a pat-down search. The BOPC noted that the Use of Force Review Board (UOFRB) would have preferred that Officer A had notified Officer B of his/her observations and had him/her present for the attempted pat-down search.

Time – There is an equation that saves lives: Distance + Cover = Time. Time gives officers options. Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources. As it pertains to shots one, two, and three, the Subject's actions limited Officer A's ability to use time to de-escalate this incident. The Subject immediately fled on foot when Officer A stated he/she was going to conduct a pat-down search. As he fled, the Subject ostensibly produced a handgun and rotated his body back toward Officer A, forcing him/her to respond with lethal force to protect himself/herself from the imminent threat of serious bodily injury or death. Regarding shot four, the BOPC opined that Officer A should have used the available time to seek cover. By not seeking cover, Officer A was in a tactically disadvantageous position and was exposed to any threat the Subject presented.

Redeployment and/or Containment – Before contacting the Subject, Officers A and B positioned their police vehicle in a manner that would have allowed them to use the police vehicle's ballistic door panels as cover. After losing sight of the Subject, Officers A and B contained the area and waited for additional units. The BOPC noted that based on Officer A's belief that the Subject was possibly armed, the UOFRB would have preferred that Officer A had pursued the Subject in containment mode.

Other Resources – After the OIS, Officers A and B broadcast an officer needs help call. Officers A and B directed responding units to their immediate location while a helicopter (an air unit) assisted in directing containment units to secure the perimeter. Metropolitan Division K9 personnel responded and assisted in the search for the Subject; however, they were unable to locate him at that point.

Lines of Communication – Although Officers A and B discussed their intention to investigate the Mercedes, their communication before, during, and after the OIS was limited. The BOPC considered that the UOFRB noted that Officer A told Officer B to retrieve the Subject's handgun. The UOFRB also noted that Officer B told Officer A to "stand by." The UOFRB further noted that Officer A attempted to use a ruse when ordering the Subject to stop.

- During its review of the incident, the following debriefing topics were noted:

1. Pedestrian Stop Tactics/Tactical Communications

Despite believing that the Mercedes may have been stolen, Officers A and B did not maintain positions of advantage nor did they attempt to control the Subject and Witness A's likely routes of escape. Instead of working together to control the Subject and Witness A, Officer B walked to the rear of the Mercedes, while Officer A walked toward the police vehicle to conduct a pat-down search of the Subject.

Neither officer communicated with their partner at that point, nor did they monitor Witness A.

The BOPC noted that the UOFRB assessed the tactics employed by Officers A and B. The UOFRB noted that rather than placing the Subject and Witness A in a position where they could be monitored and the officers could triangulate to minimize avenues of escape, Officer B walked to the rear of the Mercedes while Officer A and the Subject walked toward the front of the police vehicle. Witness A remained standing along the passenger side of the Mercedes. During the UOFRB hearing, a subject matter expert (SME) from Training Division testified that the first step in an investigation is to control the suspects. Once the suspects are controlled, officers can then begin querying people and vehicles. The SME also noted that the contact officer's role is to gather information and evidence and conduct searches, while the cover officer's role is to monitor the surroundings and the suspects while controlling likely routes of escape. Based on the totality of the circumstance, the UOFRB opined that neither officer was functioning as a dedicated cover officer.

The UOFRB Majority noted that the officers had agreed Officer A would be the designated contact officer and Officer B would be the designated cover officer. As the contact officer, the UOFRB Majority opined that Officer A should have attempted to place the Subject and Witness A (his 12-year-old son) in a position that afforded the officers a tactical advantage. The UOFRB Majority also opined that Officer A should have advised Officer B of his/her belief that the Subject was possibly armed and had his/her partner present for the attempted search. The UOFRB Majority further opined that when the Subject fled, Officer A should have called out to Officer B, advising that the Subject was running and may be armed. Based on the totality of the circumstances, the UOFRB Majority determined that the tactics employed by Officer A were a substantial deviation, without justification, from Department-approved tactical training.

As it pertains to Officer B, the BOPC noted that the UOFRB Majority determined that although the tactics he/she employed could have been different, they were not a substantial deviation from Department-approved tactical training. In reaching their determination, the UOFRB Majority noted that the officers were attempting to reduce the intensity of the situation by employing less intrusive tactics. The UOFRB Majority opined that the officers had merely assumed that there may be criminal activity afoot and were addressing the contact as a traffic stop for no front license plate. The UOFRB Majority also opined that had Witness A not been present, the officers may have handcuffed the Subject before Officer B walked to the rear of the Mercedes. The UOFRB Majority further opined that before handcuffing the Subject in front of Witness A, Officer B was attempting to transform reasonable suspicion into probable cause by querying the rear license plate number to determine if the Mercedes was stolen. As such, the Majority opined that Officer B's actions could be addressed during the tactical debrief but did not warrant a finding of Administrative Disapproval for this debriefing point.

The BOPC considered that while the UOFRB Minority concurred with the Majority's assessment of Officer A, they dissented from the UOFRB Majority's opinion regarding Officer B. As it relates to Officer B, the UOFRB Minority heavily weighed the testimony of the SME who testified that officers are trained that the first step in an investigation is to control the suspects. Once the suspects are controlled, officers can then begin querying people and vehicles. The SME also noted that the contact officer's role is to gather information and evidence and conduct searches, while the cover officer's role is to monitor the surroundings and the suspects while controlling likely routes of escape. With this, the UOFRB Minority opined that Officer B did not fulfill the role of the cover officer in this case. The UOFRB Minority noted that instead of remaining with his/her partner, helping to control Witness A and the Subject, Officer B chose to walk to the rear of the Mercedes, distancing himself/herself from his/her partner and placing a barrier between them. The UOFRB Minority also noted that Officer B did not appropriately communicate his/her actions to Officer A before walking to the rear of the Mercedes. Based on his/her position, Officer B was unable to assist his/her partner with the pat-down search and/or control the Subject's likely route of escape; Officer B's actions forced Officer A to act alone in attempting to detain the Subject. The UOFRB Minority opined that Officer B should have ensured that the Subject and Witness A were controlled before continuing with the stolen vehicle investigation. Based on the totality of the circumstances, the UOFRB Minority opined that Officers A and B had reasonable suspicion to detain the Subject and should have done so. Had they worked together to detain the Subject first, this incident may not have occurred.

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

2. Foot Pursuit Concepts

When the Subject fled on foot, Officer A unholstered his/her service pistol as he/she chased him. While pursuing the Subject on foot, Officer A operated in apprehension mode. At various points during the foot pursuit, Officers A and B were 25 to 185 feet apart.

The BOPC noted that the UOFRB assessed Officer A's tactics during the foot pursuit. The UOFRB noted that before the foot pursuit began, Officer A opined that the Subject was concealing something. When the Subject fled, Officer A immediately unholstered his/her service pistol and chased the Subject while holding his/her pistol. According to Officer A, he/she believed that the Subject had a weapon and was trying to arm himself. Based on the video footage, the UOFRB opined that Officer A was operating in apprehension mode despite his/her belief that the Subject was armed. At this point, Officers A and B were approximately 25 feet apart.

When the Subject turned back toward Officer A, he/she observed the Subject pointing a handgun toward him/her, at which point the first volley (shots one and two) occurred. At this point, Officers A and B were approximately 45 feet apart. Despite believing that the Subject was still armed, Officer A continued to pursue him in apprehension mode. According to Officer A, during this portion of the foot pursuit, he/she believed Officer B was behind him/her; however, he/she did not look back to verify this, nor did he/she hear Officer B behind him/her. According to Officer B, he/she lost sight of Officer A for “probably two to three seconds.” According to Officer A, he/she opted to continue running after the Subject because he was approaching a residential area and Officer A feared he could enter an apartment, barricade himself, and/or take a hostage. While the UOFRB understood his/her concerns, they opined that Officer A should have transitioned to containment mode.

The BOPC considered that the UOFRB noted that during the second (shot three) and third (shot four) volleys, Officer A was approximately 75 feet from the Subject; however, Officer A was also approximately 49 feet from Officer B. Despite the distance between the Subject and Officer A, the UOFRB opined that he/she was continuing to pursue the Subject in apprehension mode. The UOFRB also opined that Officer A should have used cover and slowed his/her pace to decrease the distance between himself/herself and his/her partner.

After the third volley (shot four), Officer A continued to pursue the Subject, increasing the distance between himself/herself and Officer B to approximately 185 feet. At one point, Officer B yelled to Officer A to “stand by.” Based on the distance, the UOFRB opined that Officer A could not hear his/her partner. Although Officer A stated he/she was operating in containment mode after the OIS, the UOFRB determined his/her actions during the foot pursuit were consistent with being in apprehension mode.

As it pertains to separation, BOPC noted that the UOFRB determined that as the foot pursuit progressed, there would have been an unreasonable delay in Officer B’s ability to render aid had the Subject stopped and confronted Officer A. Based on the BWV footage, Officer B appeared to stop running after reaching the east sidewalk. Although the UOFRB would have preferred that he/she had continued to run, they opined that he/she was physically exhausted at that point, hence the reason he/she yelled for Officer A to stand by. The UOFRB also opined that it was incumbent upon Officer A to be aware of his/her partner’s location. Had he/she looked back, he/she would have known Officer B was unable to maintain his/her (Officer A’s) pace. Therefore, the UOFRB opined that Officer A separated from his/her partner.

In terms of pursuing an armed suspect, the UOFRB noted that it was not until after the third volley (shot four) that Officer A saw a handgun on the ground and could have reasonably believed that it was the Subject’s. As such, before this point, Officer A pursued a suspect he/she believed to be armed with a handgun in what the UOFRB opined was apprehension mode.

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

During the review of this incident, the following Additional Debriefing Topics were noted:

Additional Tactical Debrief Topics

- **Profanity/Tactical Language** – While ordering the Subject to stop, Officer A used profanity and threatened to shoot the Subject as part of a ruse to obtain his surrender. In terms of the profanity, while not a best practice, it was not excessive or derogatory, and it was intended to gain compliance. In terms of the ruse, the BOPC noted that the UOFRB opined that Officer A's choice of words was inconsistent with the actual or perceived threat at that point and felt this was worthy of discussion during the tactical debrief.
- **Preservation of Evidence** – Returning to the crime scene, Officers A and B entered their police vehicle to obtain their cellphones. While retrieving crime scene tape from the trunk of his/her police vehicle, Officer B inadvertently discharged the extinguisher, dispersing fire retardant in the trunk and around the crime scene. Checking the Mercedes for suspects and evidence, Officer A opened the driver's side front and rear doors. Alternatively, the officers could have obtained crime scene tape from another vehicle and could have limited their search of the Mercedes to a protective sweep for additional suspects.

Command and Control

- Sergeant A responded to the OIS incident and declared himself/herself as the Incident Commander (IC) shortly after his/her arrival. He/she was contacted by Officer B regarding the Subject's handgun and he/she advised to store it in his/her police vehicle. He/she ensured the perimeter was established, coordinated responding personnel, including the response of the K9 units, established a Command Post (CP), and requested units to relieve the primary unit so they could respond to the CP. Sergeant D responded to the incident with Sergeant A and assisted him/her with his/her IC duties.

Sergeant B responded to the OIS incident and assisted Sergeant A in establishing a perimeter. Sergeant B directed the involved officers to take his/her police vehicle to the CP while he/she remained to oversee the perimeter and K9 search.

Sergeant C contacted Officers A and B at the crime scene and identified them as the involved officers. Approximately five minutes after contacting Officers A and B, he/she separated, monitored, and obtained their public safety statements (PSSs). He/she took possession of Officers A and B's BWV cameras. Sergeant C subsequently transported Officers A and B to the CP where they were separated and monitored by additional supervisors.

The BOPC considered that the UOFRB noted a delay in the separation and monitoring of Officers A and B. Although there was an ongoing tactical situation, the UOFRB opined that Sergeants A, B, C, and D could have separated and monitored Officers A and B sooner.

Except for the above, the overall actions of Sergeants A, B, C, and D were consistent with Department training and the BOPC's expectations of supervisors during a critical incident.

Tactical Debrief

In conducting an objective assessment of this case, the BOPC determined that the actions of Officers A and B were a substantial deviation, without justification, from Department-approved tactical training. Therefore, the BOPC found Officers A and B's tactics to warrant 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.

Although it was determined that Sergeants A, B, C, and D would not receive formal findings, the BOPC determined that they would benefit from attending the Tactical Debrief.

B. Drawing and Exhibiting

- **Officer A – [1st Occurrence]**

As Officer A ran near the front right quarter panel of his/her police vehicle, he/she unholstered his/her service pistol with his/her left hand and held it in a one-handed grip position as he/she ran after the Subject. According to Officer A, he/she unholstered his/her service pistol because he/she believed the Subject may be armed. The Subject had been making movements toward his waistband and shirt in what Officer A believed was an attempt to conceal something.

- **Officer A – [2nd Occurrence]**

At 2017:16 hours, BWV captured Officer A briefly holster his/her pistol. He/she then unholstered his/her pistol again. Officer A believed the Subject was possibly hiding nearby and may have been armed.

The BOPC noted that the UOFRB assessed Officer A's drawing and exhibiting of his/her service pistol. The UOFRB noted that before the foot pursuit began, Officer A opined that the Subject was concealing something. According to Officer A, the Subject appeared nervous, was looking around, and kept adjusting his waistband

area. When asked if he had any weapons on him, the Subject said he did not. However, when Officer A advised the Subject that he/she was going to conduct a pat-down search, the Subject quickly turned and ran. In response, Officer A unholstered his/her service pistol and chased him. Based on the Subject's actions, the UOFRB opined that it was reasonable for Officer A to believe that the Subject was armed.

As it pertains to Officer A's second occurrence, the UOFRB noted that the Subject had already pointed a handgun at Officer A. Officer A believed that the Subject was possibly hiding nearby and may still be armed. Although the Subject had dropped his handgun, the UOFRB noted that during a subsequent search of the Mercedes, investigators seized a second handgun from the glove compartment. As such, the UOFRB opined that it was reasonable for Officer A to believe that the Subject may have had an additional firearm.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified. Therefore, the BOPC found all occurrences of Officer A's Drawing/Exhibiting to be In-Policy.

C. Lethal Use of Force

- **Officer A** – Four rounds in three volleys, from 33 to 75 feet.

Background – According to Officer A, there was an empty school across the street, light vehicular traffic, and no visible pedestrians in his/her background. Per the FID investigation, Witnesses B and C were not in Officer A's background. According to Officer A, he/she was cognizant of his/her background.

Volley One (Shots One and Two)

Officer A – two rounds in a southeasterly direction, from an increasing distance of 33 to 38 feet.

Surveillance video from the motel depicts the Subject running east away from Officer A toward the north gate. While running away from the officers, an object fell from the Subject's body. The investigation revealed that the object was a cellular phone. The Subject then ran past the gate. The surveillance video depicts the Subject rotating his torso and head backward while raising and extending his right arm to shoulder level and aiming it toward Officer A. Officer A transitioned to a two-handed grip position. According to Officer A, he/she believed the Subject was going to shoot him/her. To protect himself/herself and his/her partner, Officer A used a two-handed grip, aimed his/her pistol toward the Subject, and fired two rounds.

Volley Two (Shot Three)

Officer A – one round in a southeasterly direction, from approximately 75 feet.

Immediately following Officer A discharging his/her second round, the Subject fell onto the ground. The Subject fell onto his upper torso area and slid forward a short distance before standing up. The Subject continued running in a southeasterly direction through the motel's east parking lot. While on the move, Officer A used a two-handed grip, aimed his/her pistol, and fired a third round at the Subject in a southeasterly direction from an approximate distance of 75 feet. Officer A had observed the Subject make furtive movements; specifically, he made eye contact and bladed his body toward Officer A as if he was going to shoot at him/her. Officer A believed the Subject was still armed with the handgun.

Volley Three (Shot Four)

Officer A – one round in a southeasterly direction, from approximately 75 feet.

After Officer A fired his/her third round, he/she continued to chase the Subject. According to Officer A, he/she observed the Subject make eye contact with him/her and blade his body with his hands in a "close contact position." Based on the Subject's body posture and movements, Officer A believed the Subject was intending to shoot at him/her. Officer A stopped, took a two-handed shooting stance, aimed his/her pistol, and fired a fourth and final round at the Subject in a southeasterly direction from an approximate distance of 75 feet.

The BOPC considered the UOFRB's assessment of Officer A's lethal use of force. The UOFRB noted that according to Officer A, before discharging his/her first volley (shots one and two), he/she had observed the Subject raising a handgun toward him/her. The Subject appeared to make eye contact and "zero in" on Officer A. Based on his/her observations, Officer A believed that the Subject was going to shoot him/her. The UOFRB also noted the surveillance video footage which depicted the Subject rotating his torso and head back, while raising and extending his right arm to shoulder level, aiming toward Officer A. The UOFRB further noted that, according to Officer A, his/her face was struck by unknown debris between his/her first and second shot. Although the investigation determined one of Officer A's rounds struck one of the north gate's metal posts, the UOFRB opined that it was reasonable for him/her to assume that the Subject had fired a round, despite Officer A's round being the likely cause of the debris. Based on the totality of the circumstances, UOFRB determined that the Subject's actions posed an imminent deadly threat.

As it pertains to the second (shot three) and third volleys (shot four), the BOPC considered that the UOFRB noted that Officer A believed "one hundred percent" the

Subject was still armed with a handgun. The UOFRB noted that before both volleys two (shot three) and three (shot four), Officer A had observed the Subject pause and blade his body back toward him/her. Before discharging the third and final volley (shot four), Officer A observed the Subject's hands close to his abdomen area, consistent with a "close contact" shooting position. Based on his/her observations, he/she believed the Subject was going to shoot at him/her. The UOFRB opined that the Subject's actions before the second (shot three) and third volleys (shot four), as described by Officer A, were consistent with someone attempting to acquire a target not trying to run away. The UOFRB also noted that unlike the first volley (shots one and two), the available video footage of volleys two (shot three) and three (shot four) did not clearly depict the Subject's actions at these points. Based on the totality of the circumstances, the UOFRB opined that it was reasonable for Officer A to believe the Subject posed an imminent deadly threat to him/her.

Regarding the second volley (shot three), the BOPC noted that the video evidence was unclear as to the Subject's movements when Officer A discharged his/her third round. However, based on Officer A's description of the Subject's movements before the second volley (shot three), combined with the Subject's actions as depicted in the surveillance video, and the proximity in time between volleys one (shots one and two) and two (shot three), the BOPC agreed with the UOFRB's assessment that the Officer A reasonably believed that the Subject posed an imminent deadly threat at that point.

Concerning volley three (shot four), the BOPC noted that before discharging his/her fourth and final round, Officer A stopped running and appeared to acquire a target before firing. The BOPC also noted that despite the available cover, Officer A remained in the open after observing the Subject turn his body back toward him/her on two prior occasions while Officer A believed him to be armed with a handgun. Although Officer A used deadly force when he/she observed the Subject taking actions that reasonably caused him/her to believe the Subject intended to shoot at him/her, the BOPC did not believe that Officer A exhausted all reasonable options before discharging his/her service pistol. Rather than remaining exposed, the BOPC would have preferred that Officer A used the time he/she took to acquire a target to instead acquire cover. By not seeking cover, Officer A was in a tactically disadvantageous position and was exposed to any threat the Subject presented. Had he/she used the cover available to him/her, Officer A could have mitigated the threat to his/her own safety without resorting to lethal use of force.

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 lethal use of force during volleys one (shots one and two) and two (shot three) was proportional, objectively reasonable, and necessary. Concerning volley three (shot four), the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would not reasonably believe that the use of lethal force was necessary.

Therefore, the BOPC found Officer A's lethal use of force for volleys one and two (shots one, two, and three) to be In Policy. The BOPC found Officer A's lethal use of force for volley three (shot four) to be Out of Policy.