

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

OFFICER-INVOLVED SHOOTING – 002-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No()
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Hollenbeck	1/11/22	.	
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	5 years, 3 months
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Officer B	3 years, 3 months
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Reason for Police Contact

Officers attempted to stop the Subject who fled on foot after concealing a gun under his shirt. During the ensuing foot pursuit, the Subject removed the gun from his waistband and pointed it toward an officer, which resulted in an Officer-Involved Shooting (OIS). The Subject threw the gun over a fence and continued running. When officers caught up with the Subject, they became involved in a Non-Categorical Use of Force, applying firm grips, physical force, and a TASER discharge. The Subject was subsequently taken into custody. Although not struck by gunfire, he was transported to a local hospital to remove the TASER darts.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Male, 33 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 recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on December 13, 2021.

Incident Summary

On Tuesday, January 11, 2022, at approximately 2010 hours, Officers A and B were patrolling in a black and white police vehicle when they observed a group of three individuals walking south through the parking lot of a liquor store located on the southeast corner of an intersection.

Both officers observed that a member of the group was pulling a dolly-style cart that carried what Officer A initially believed to be car batteries. According to Officer A, "I know it's a high vehicle theft [area]. I've recovered numerous stolen cars there with batteries stolen. I know they steal stuff off the trains and stuff like that." Based on his/her knowledge of the area, Officer A believed that the items were potentially stolen.

According to Officer A, Officer B pointed out his/her observation by stating, "Hey, let's check out these guys." Officer A then negotiated an eastbound turn and pulled their vehicle south into the driveway of the lot. As they entered the lot, Officer A recognized the individual pulling the cart.

According to Officer A, he/she was familiar with the Subject from previous contacts that included consensual encounters, detentions, and arrests over the course of approximately three years.

Intending to engage in a consensual encounter to determine if additional investigation was warranted, Officer A pulled along-side the Subject, who stood on the driver's side of the police vehicle. Officer A then initiated a casual conversation with him as the other individuals entered the store.

According to the officers, due to their initial intent to engage in a casual and temporary conversation with the Subject, they did not initially communicate their Code Six (on-scene) location or activate their vehicle emergency lighting equipment. According to Officer B, "We felt at the time that we were just having a conversation with somebody, that we didn't need to broadcast that we were actually going to detain him. He was still - the suspect was still free to go at any time."

According to Officer A, he/she slowed his/her vehicle so as not to block the Subject's path and did not instruct the Subject to stop. "I pulled up into the driveway to get off the main thoroughfare [...]. I pulled into the driveway, and it was at that point that I observed it was [the Subject]. And I was like, oh, like, 'What's going on, [the Subject]?' Just kind of talking to him. Normally, like I would see them like in the mindset like, oh, it's just [the Subject]. You see me in the video I'm like slowly creeping forward just kind of looking for a way to leave the conversation without being completely rude."

The investigation determined that the Subject stood approximately 15 feet from the officers' police vehicle at the time they contacted him. The distance was established after an analysis of the available security video, crime scene measurements, and Google satellite imagery.

As Officer A drove closer, he/she realized that the items on the dolly were stereo speakers rather than car batteries. Officer A recalled that he/she jokingly asked the

Subject where he had stolen the items on the dolly. The Subject responded that he had not stolen them but had purchased them from a friend. According to Officer A, he/she then asked the Subject, "Do you have anything on you?" When the Subject answered that he did not, Officer A asked, "Can I see?" Officer A recalled that the Subject voluntarily lifted the left side of his shirt, exposing the left side of his waistband and abdomen and stated, "Look, I ain't got nothing," while simultaneously holding the right side of his shirt down.

According to Officer A, he/she initially believed the Subject was attempting to conceal drugs, a spray paint can or tools, stating, "And so, um, when I seen him tonight and he just didn't want [to] lift the right side, I thought it was just him being slow and just, like, hiding a tool or something stupid that I don't even care about."

Officer A alerted Officer B of his/her suspicions. He/she began to step out of the vehicle and activated his/her Body-Worn Video (BWV) camera at 2012:10 hours. As Officer A exited, the Subject immediately began running east from the parking lot, abandoning the dolly. The dolly and its contents were removed from the scene by the Subject's companions prior to the arrival of additional police personnel.

According to Officer A, as the Subject reached the sidewalk, he immediately grabbed his front right waistband with his right hand. Officer A observed the right side of the Subject's sweatshirt rise upward, exposing what Officer A believed to be the butt of a gun, "Um, so I believe at that point he was armed with a gun and trying to -- attempting to, um, I guess, I don't want to say unholster but remove it from his waistband to arm himself."

Officer A is captured on BWV declaring, "Gun, gun, gun," to Officer B. Believing that the Subject was attempting to arm himself by removing the gun from his waistband, Officer A unholstered his/her pistol with his/her right hand as he/she pursued the Subject on foot along the south sidewalk. Officer B also pursued the Subject on foot.

According to Officer B, he/she heard Officer A alert him/her to a gun but did not observe a gun at that time. He/she did observe the Subject reaching to his front waistband.

At 2012:15 hours, Officer A held his/her police radio in his/her left hand and broadcast that they were in foot pursuit of a 415 man with a gun. Officer A added, "It's going to be [the Subject's name]." His/her broadcast was acknowledged and repeated by Communication Division (CD).

According to Officer A, he/she did not recall if he/she had holstered his/her pistol during the foot pursuit. Based on BWV footage, Officer A does not appear to holster his/her pistol until the termination of the foot pursuit. In regard to running while holding his/her pistol, Officer A recalled that the Subject was actively pulling the gun from his waistband throughout the foot pursuit. Officer A felt that the situation could have escalated to a deadly force situation as the Subject fled.

As the Subject ran, he crossed the street to the north sidewalk, then continued to the northwest corner of a nearby intersection. According to Officer B, once the Subject reached the corner, he (the Subject) removed the gun from his waistband and held it in

his right hand as he turned north on the west sidewalk. Officer B alerted Officer A of his/her observations stating, "Gun." According to Officer B, he/she transitioned from the sidewalk to the street to utilize parked vehicles on the west side of the street for cover as the Subject continued north. After observing the Subject holding the gun, Officer B unholstered his/her pistol, believing that the situation could escalate to the point where deadly force would be necessary. Officer B ran with his/her pistol in his/her right hand, pointed downward.

According to Officer A, he/she was aware of parked vehicles and residential walkways that were immediately available to him/her as cover during the foot pursuit.

Officer A followed on the west sidewalk as both officers repeatedly commanded the Subject to drop the gun. According to the officers, their intent was to maintain visual contact with the Subject in order to establish a perimeter. Officer A stated, "I'm not trying to go -- go hands-on with him. He's got -- he's armed with a gun. Like I'm not trying to fight with him or just keep eye contact -- or keep line of sight with him far enough to -- where I have had cover I can fall back to. But close enough to where I can maintain line of sight and see exactly which house he's running into or exactly what yard he decides to run into or what fence he decides to hop where I'm not guessing, which -- which street."

The Subject turned west into an alley located mid-block, out of Officer A's view. Officer A recalled slowing his/her momentum and "pied" the corner of the alley to avoid an immediate contact with the Subject. Once at the mouth of the alley, Officer A observed the Subject running ahead of him/her, westbound, along the south side of the alley. He was holding the gun in his right hand, free from his waistband. Officer A also observed Officer B to his/her right, on the north side of the alley.

As they entered the mouth of the alley, BWV captured both officers appear to slow their momentum. According to Officer B, he/she did not lose sight of the Subject upon entering the alley. He/she assumed a two-handed grip of his/her pistol as he/she monitored the Subject's progress while giving him repeated commands to drop the gun.

Officer B did not recall slowing upon entering the alley. Although he/she at first indicated during his/her interview that he/she was in containment mode, Officer B later indicated that his/her intent was to follow the Subject and continue to monitor him and ultimately take him into custody. He/she expressed a concern that, as the Subject entered the alley, they would lose the opportunity to contain the Subject because additional resources had not yet arrived to establish a perimeter.

According to Officer A, he/she remained aware of structures along the alley immediately available for cover as he/she moved forward adjacent the south fence-line. Both officers believed that the Subject could potentially enter a residential property, and they continued to follow him and maintain visual contact, out of concern for public safety if he jumped over a fence.

As the Subject ran west into the alley, Officer B proceeded along the north side of the alley. He/she described the Subject as holding the gun pointed downward at his right side, then began to raise the barrel of the gun parallel to the ground. In response,

Officer B slowed and raised his/her pistol in a two-handed grip, aimed it at the Subject, and placed his/her finger on the trigger.

Although Officer B indicated that he/she had not intended to shoot upon placing his/her finger on the trigger of his/her pistol, he/she clarified that he/she believed that the Subject was about to point the gun at him/her to shoot him/her. He/she stated, "I believed that he was going to either shoot me or my partner or in attempt to throw the gun, because I know that in the past suspects have thrown guns."

Officer B added that he/she then removed his/her finger from the trigger as he/she observed the Subject continue to raise the gun in a throwing motion over the top of his head. Officer B's BWV depicted the Subject swing the gun from right to left, in an arching motion over his head, as he threw the gun over a fence on the south side of the alley. The throwing motion appeared to cause the Subject to cant his body to the left as he discarded the gun.

Simultaneously, Officer A recalled observing the Subject turn his head to the right and look back toward Officer B. Officer A added that upon doing so, the Subject began to raise the barrel of the gun with his right hand and extend it rearward toward Officer B as he continued to run.

According to Officer A, "At that point I see him turn with his -- with his right hand with the gun in his right hand, I see him look to his right and he begins to turn and points the gun at my partner who's standing off to my right."

According to Officer B, his/her attention was focused on the gun in the Subject's hand and he/she did not observe the Subject look in his/her direction.

Believing the Subject was going to shoot, and fearing for his/her partner's life, Officer A raised his/her pistol in a single-handed grip with his/her right hand. He/she fired one round in a westerly direction at the Subject's rear torso from approximately 33 feet, as the Subject continued west, away from the officers. According to Officer A, he/she believed that his/her only option to stop the threat to his/her partner was to fire his/her pistol.

At the time Officer A fired, he/she was still moving forward and broadcasting an updated location and direction of travel, "Westbound in the...", holding his/her police radio in his/her left hand. The broadcast was interrupted by the sound of his/her gunshot on Hollenbeck Division frequency at approximately 2012:42 hours.

According to Officer A, after firing his/her first round, he/she observed the Subject lower the gun, pointing the muzzle toward the ground, then swing the gun across his body, from right to left, resulting in the barrel briefly positioned parallel to the ground at chest level, exposing the muzzle on the left side of the Subject's body. Officer A recalled that the Subject simultaneously turned his head to the left, appearing to look over his left shoulder. Officer A believed the Subject was attempting to acquire him/her as a target and was in the process of turning to shoot. Officer A stated, "I thought he was turning around to -- to shoot at me. He already pointed the gun at my partner, so I thought he was coming after me."

In describing the Subject's motion, Officer A added, "Yeah, his -- like his arm was coming across his body so like his upper body is already starting to turn a little bit. His head is looking left so he was in the process of turning around." When asked what he thought the Subject's intentions were, Officer A answered, "Was to point the gun at me and shoot me. I thought -- I thought it was -- like I said, it was either him or me going home at the end of the day."

Based on the Subject's action, Officer A fired a second round in a westerly direction, from approximately 28 feet, as he/she moved forward, holding his/her pistol in his/her right hand with a single-handed grip.

Using BWV, Force Investigation Division (FID) identified that two gunshots were fired by Officer A. The Subject's right arm appeared to be extended rearward 0.409 seconds before the first gunshot. Officer A appeared to have fired the first round as the Subject was completing the throwing motion with his/her right arm. Officer A's second round was fired after the Subject lowered his arm from the throwing motion, 0.855 seconds after the first round was fired.

Officer A was still holding his/her radio in his/her left hand and believed he/she was placing it in its carrier at the time of the second round.

According to Officer A, after firing the second round, he/she observed the Subject's gun in the air before it landed on the roof of a building on the opposite side of the fence along the south side of the alley. He/she described it as a large gun with a long grey barrel and black handle.

Officer A stated that he/she did not observe a throwing motion by the Subject prior to observing the gun in the air. Officer B did not observe Officer A fire and heard only one gunshot as the Subject swung the gun over his head. Officers A and B both utilized their pistol mounted lights at the time of the OIS.

At approximately 2012:50 hours, immediately following the OIS, Officer A broadcast, "Officer needs help." The Subject continued running several feet before falling forward onto his front. Both officers momentarily stopped their forward motion. Officer A began giving repeated commands to the Subject to get on the ground. Simultaneously, Officer B advised Officer A that he/she would assume communications and then broadcast, "Officer needs help, shots fired." The Subject immediately returned to his feet and resumed fleeing westbound in the alley, ignoring Officer A's commands.

Unless otherwise indicated, the following description of events were derived from a review of BWV and recorded radio transmissions.

As Officers A and B followed the Subject on foot toward the end of the alley, Officer B holstered his/her pistol after observing that the Subject's hands were free. Officer B asked Officer A, "Hey [Officer A], you good?" Officer A replied, "I'm good."

At approximately 2012:59 hours, as he/she proceeded west in the alley behind Officer B, Officer A broadcast their direction of travel.

Simultaneously, the Subject reached the street at the end of the alley and turned southbound onto the east sidewalk, appearing to slow his pace. As Officer A continued to broadcast their direction of travel, Officer B closed the distance to the Subject. He recalled that the Subject appeared to have slowed due to fatigue. Based on the Subject's actions and failure to comply with previous commands, Officer B believed the Subject may attempt to arm himself or continue to flee. According to Officer B, he/she could see both of the Subject's hands and felt it was safe to approach him. At 2013:05 hours, as the Subject faced away, Officer B placed his/her hands on the back of the Subject's shoulders and, using his/her forward momentum, pushed the Subject to the ground.

According to Officer B, the Subject attempted to stand. Officer B applied weight to the Subject's back to prevent him from returning to his feet for approximately eight seconds before being joined by Officer A.

Officer A recalled that he/she had paused before continuing the foot pursuit due to his/her belief that the Subject had been struck by gunfire after initially observing him fall to the ground. He/she slowed to broadcast additional information to responding units and was surprised that the Subject returned to his feet and again began running.

As captured on Officer A's BWV, the Subject was in a kneeling position on the sidewalk, bent forward with his right hand flat on the ground bracing his body. Officer B knelt at the Subject's left side with his/her right arm wrapped around the Subject's back as they both faced west toward the street.

At 2013:13 hours, Officer A holstered his/her pistol and grabbed the Subject's right wrist with his/her right hand as the Subject appeared to push himself upward to a standing position. Officer B took a grip of the Subject's left wrist with both hands and the officers attempted to pull his hands behind his back. According to both officers, the Subject continually resisted and attempted to pull away from them by straightening his arms and shifting his body back and forth. According to Officer B, he/she moved the Subject to a fence along the east sidewalk, in an attempt to control his movement.

As the officers attempted to maintain control of his arms, the Subject spun to his left, away from Officer A's grasp. The Subject appeared to lose his balance as he pulled from Officer B's grasp of his left wrist and fell to the sidewalk in a seated position. Officer B immediately acquired a grip of the Subject's right wrist with both hands. Officer A grabbed the Subject's left wrist with his/her left hand and momentarily placed his/her right hand on the back of the Subject's neck, appearing to apply downward pressure before grabbing the left wrist with both hands as the Subject remained in a seated position.

Throughout the struggle, the officers repeatedly instructed the Subject to put his hands behind his back as he resisted their efforts to handcuff him. Officer B directed him to stop and to relax. The Subject stated that he didn't have anything on him and continually questioned why the officers had shot at him. He also demanded to be released stating, "You better let me go."

At approximately 2014:18 hours, as the officers attempted to maintain control of the Subject's hands, Officer A broadcast their location.

The Subject stood up a second time as the officers continued to struggle to control his arms. According to both officers, they had become fatigued. They can be heard breathing deeply on BWV as they repeatedly instructed the Subject to put his hands behind his back. The struggle then moved to the rear of a black sport utility vehicle parked along the east curb. The officers utilized forward pressure to push the Subject against the vehicle in a continued effort to control his movement.

Officer B recalled, "It was just we were both tired. I heard my partner's voice as [he/she] was fatigued, and I was certainly fatigued too. And this guy was continually trying -- talking, continually resisting us. He was strong. We were kind of getting tired. We didn't hear sirens yet. We still didn't have an airship overhead. We didn't hear anything like that, so we were still continually trying to give him commands to just put his hands behind his back."

At 2015:39 hours, the Subject again spun his body and pulled away from the officers' grasp stating, "Let me go, dog." He faced the officers and began stepping backward, away from them and into the street.

Based on the Subject's actions, both officers believed that the Subject was preparing to fight. The officers' BWV depicted the Subject momentarily grab the front of his sweatshirt with his left hand at chest level, appearing to adjust it on his body, as he/she faced the officers. He appeared to place his right hand behind his right hip, out of view and assumed a bladed stance as he stepped backward.

According to Officer A, "He turns around and he faces us and he like looks like he's about to, ready to take off his jacket to try to square up and fight us. So I'm like, I'm not -- I'm tired, I just ran after you like probably a quarter mile I felt like. And we fought with you, we're struggling with you for two minutes, fighting with you trying to get your hand behind your back. And I was like -- I was like I don't know how much more I have left in me."

Officer B described the Subject as appearing to be angry and upset. He recalled, "Due to us not being able to get him handcuffed after we had lost our grip, I figured he was violently resisting with us. He continued to do that, show us that he still wasn't going to go along with the program, our commands that we had given him. He still continued to clench his fists, ball them up, said he wasn't -- say he didn't do anything wrong, not listening to the things that we were telling him."

Based on BWV, the struggle lasted approximately 2 minutes and 34 seconds before the Subject completely pulled away from the officers.

Believing that the Subject was taking a fighting stance, Officer A unholstered his/her TASER and prepared to discharge it. Simultaneously, Officer B warned the Subject, "I'm going to tase you bro." The Subject then turned away from the officers and began running toward the west side of the street.

According to Officer A, he/she was aware of a multi-unit, bungalow style apartment complex located on the west side of the street. When the Subject turned to run in that direction, Officer A became concerned that the Subject was going to run into that property, posing a danger to its residents. Regarding his/her decision to utilize his/her TASER, Officer A stated, "I'm thinking like this guy is desperate to get away. He's fighting with us. I don't know if he's going to take people into custody -- or and take people hostage or what -- what's his intentions are at this point."

At approximately 2015:41 hours, Officer A followed the Subject into the street. As the Subject reached the center of the street, Officer A fired the TASER in "probe mode" from approximately 12 feet away. One barb struck the Subject at the lower left back and the other struck his left buttock. The TASER discharge cycled for approximately five seconds and appeared to cause neuro-muscular incapacitation (NMI), causing the Subject to immediately fall onto his front.

Officer A did not provide a warning prior to firing the TASER. According to Officer A, he/she was aware that Officer B warned the Subject that he would be tased. Officer A, however, felt that he/she did not have the opportunity to provide a warning due to his/her own fatigue and the Subject's sustained physical resistance.

While maintaining his/her hold of the TASER, Officer A began giving the Subject repeated directions to place his hands behind his back and warned that he would be tased again if he did not comply. The Subject then raised his body and rolled to a seated position facing Officer A. He began yelling at the officers, failing to comply with Officer A's directions. He remained in that position before eventually laying on his back as the officers broadcast their updated location and waited for additional units to arrive.

At approximately 2017 hours, Officers C and D arrived at the scene. Officer B directed the Subject to turn over. He/she grabbed the Subject's left arm and rolled him onto his stomach, intermittently placing his/her left knee on the Subject's lower back as he/she pulled the Subject's arms behind him. Officer C approached the Subject's left side, placed his/her left knee on the Subject's left shoulder and grabbed the Subject's left wrist. He/she handcuffed the Subject with Officer B's assistance.

Once handcuffed, both officers released their bodyweight from the Subject and stood up. Officers C and D assisted the Subject to his feet and escorted him to the front of their police vehicle. Officer C conducted a search of the Subject and recovered three live shotshells and a clear baggie containing methamphetamine from his pockets. At 2019:07 hours, Officer D requested the response of a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) due to the TASER application.

As the Subject was being handcuffed, Officer A directed the first arriving units, mid-block, into the alley where he/she had observed the Subject throw the gun. Once the Subject was in custody and being monitored by Officers C and D, Officers A and B entered the alley and informed officers of the specific property where they believed the gun was located.

Officers E and F entered the rear parking area of the property. They located the gun on the ground, immediately adjacent to the porch of the rear residence. Officers E and F

contacted the residents of the home and verified their safety and remained at the location to monitor the gun.

At approximately 2020 hours, Sergeant A arrived in the alley and immediately contacted Officers A and B who advised that an OIS had occurred. He/she ensured separation of the officers and obtained individual Public Safety Statements (PSSs) from them. Sergeant A also ensured that a crime scene was established and notified the Watch Commander, Sergeant B, of the OIS.

Lieutenant A arrived at approximately 2021 hours. He/she coordinated crime scene activities, established a Command Post, and declared himself/herself as the Incident Commander.

At approximately 2026 hours, LAFD RA arrived at scene. The Subject was transported to a hospital.

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	DICV RECORDING OF ENTIRE INCIDENT
Officer A	No	Yes	No	No	No
Officer B	No	Yes	No	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 Administrative Disapproval.

B. Drawing/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 A and B's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

The BOPC found Officer A's less-lethal use of force to be Out of Policy.

E. 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, 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

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

Tactical De-Escalation Techniques

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

Tactical de-escalation does not require that an officer compromise his 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 worked together on several occasions during which they had discussed tactics, including contact and cover roles and foot pursuit concepts, specifically apprehension versus containment. During their discussions, they had determined Officer A would act as the communications officer during a foot pursuit as Officer B ran faster. Observing the Subject in the parking lot of a liquor store, ostensibly in possession of stolen property, the officers planned to conduct a consensual encounter.

Assessment – Driving near a liquor store, Officers A and B observed the Subject in the parking lot with two other men. The Subject was pulling a dolly containing what Officer A suspected were stolen car batteries. Officer A recognized the Subject from prior contacts and knew he was a documented gang member.

Initiating contact with the Subject, Officer A asked if he had anything on him. The Subject lifted the left side of his shirt while simultaneously holding down the right side. Officer A suspected that the Subject was concealing contraband and stepped out of his/her police vehicle. As the Subject ran from the parking lot, Officer A observed what appeared to be the butt of a gun in the Subject's waistband and advised his/her partner of his/her observations.

As they pursued the Subject on foot, Officers A and B assessed the Subject's hand movements, available cover, and lack of verbal response from additional units. Observing the Subject raise his gun, both officers assessed the need to use lethal force. Observing the Subject continue to raise the gun in a throwing motion over the top of his head, Officer B did not discharge his/her service pistol. Observing the Subject appear to turn and point the gun at his/her partner, Officer A discharged one

round from his/her service pistol. According to Officer B, his/her attention was focused on the gun in the Subject's hand and he/she did not observe the Subject look in his/her direction. Observing the Subject appear to turn his head to the left and look over his left shoulder, Officer A believed the Subject was attempting to acquire him/her as a target and was in the process of turning to shoot. In response, Officer A discharged his/her second and final round at the Subject.

After the Subject threw his gun over a fence and continued to run in the alley, Officer B assessed the need to continue the foot pursuit; Officer A assessed the need to continue running after his/her partner. As Officer B closed the distance with the Subject, he/she believed that the Subject had slowed his pace due to fatigue and that his hands were empty. Officers then used physical force to apprehend the Subject. After attempting to apprehend the Subject for 2 minutes and 34 seconds using physical force, the Subject broke free from the officers' grips and appeared to square up with them. Officer A opined that the Subject posed a threat to the officers and the public and assessed the need to use less-lethal force to apprehend the Subject as he fled.

Time – According to Officers A and B, during the foot pursuit, they maintained distance, were cognizant of cover, and operated in containment mode (before the OIS). However, based on the Body Worn Video (BWV) footage, the Use of Force Review Board (UOFRB) opined that Officers A and B were in apprehension mode based on their proximity to the Subject. This issue is discussed further in Debriefing Point No. 3 below. After the OIS, the officers closed the distance and attempted to apprehend the Subject using physical force.

Redeployment and/or Containment – When the Subject fled, Officers A and B pursued him on foot. Both officers described being in containment mode as they pursued the Subject constantly maintaining a distance from him of approximately 10 to 20 feet. Officers A and B continued to pursue the Subject after he entered an alley, noting they did not hear any response from additional units or an air unit. This issue is also discussed further in Debriefing Point No. 3.

Other Resources – Officer A broadcast a foot pursuit for a 415 man with a gun, resulting in CD requesting additional units and an air unit. After the OIS, both Officers A and B broadcast an officer help call, with Officer B adding the request was for shots fired. The first additional unit to respond arrived approximately five minutes after the initial foot pursuit broadcast.

Lines of Communication – Observing the Subject and two other males in the parking lot of the liquor store, Officer B told Officer A, "Hey, let's check out these guys." During their initial contact, Officer A asked the Subject if he had anything on him. When the Subject said he did not, Officer A asked, "Can I see?" In response, the Subject lifted the left side of his shirt and said, "Look, I ain't got nothing."

As the Subject fled the parking lot, Officer A observed what appeared to be the butt of a gun in the Subject's waistband. In response, Officer A announced to Officer B, "Gun, gun, gun!" During the foot pursuit, Officer A advised CD of their location and direction of travel. Before the OIS, Officers A and B gave the Subject numerous,

non-simultaneous commands to drop his gun. Instead, the Subject maintained possession of his gun before throwing it over a fence. After the OIS and during the non-lethal use of force, Officers A and B gave the Subject numerous commands to place his hands behind his back. Instead, the Subject questioned the officers as to why they shot at him, demanded to be released, and physically resisted arrest. Before Officer A discharged his/her TASER, Officer B provided the Subject a partial UOF warning, stating, "I'm going to tase you, bro!" After being struck by the TASER darts, the Subject was given numerous commands to place his hands behind his back. Instead, the Subject ignored the officers' commands and continued to argue with officers until additional units arrived at the scene.

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

Debriefing Point No. 1 Code Six

Officers A and B did not advise CD of their Code Six (on-scene) location before initiating contact with the Subject, whom they suspected had stolen property. When the Subject fled on foot, Officer A advised CD of their location and that they were in foot pursuit of a man with a gun.

The BOPC noted that the UOFRB assessed Officers A and B's adherence to the Code Six policy. The UOFRB noted that 24 seconds passed from the time officers contacted the Subject to the time they broadcast the foot pursuit. Despite suspecting that the Subject had stolen property and recognizing him as a criminal street gang member, Officers A and B did not advise CD of their Code Six location before initiating contact with the Subject. The UOFRB also noted that when the officers first observed the Subject, he appeared to be with two other men. As such the officers were potentially outnumbered. Although Officers A and B described the initial contact as a consensual encounter, the UOFRB noted that both officers were aware of crime trends in the area and that they intended to investigate a possible theft. Regardless of whether the officers had reasonable suspicion or were attempting to develop it through a consensual encounter, the UOFRB opined that they were conducting a field investigation and should have notified CD of their location before contacting 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 Department-approved tactical training.

Debriefing Point No. 2 Pedestrian Contacts

Officer A drove the police vehicle alongside the Subject as he was walking south in the parking lot, initiating contact with him while Officers A and B were seated in their police vehicle. The Subject stood approximately 15 feet away from the driver's side of the police vehicle as he lifted the left side of his shirt exposing part of his waistband while attempting to conceal a firearm.

The BOPC noted that the UOFRB assessed Officers A and B's decision to initiate contact with the Subject while seated in their police vehicle. The UOFRB noted that

although Officers A and B were aware of crime trends in the area and suspected the Subject had stolen property, they initiated contact with him while seated in their police vehicle. Despite Officer A recognizing the Subject as a gang member, the officers remained seated. The UOFRB also noted that after the Subject denied having anything on his person, the officers remained seated in their police vehicle as the Subject lifted the left side of his shirt, concealing a modified shotgun in his waistband. The UOFRB opined that Officers A and B's tactics placed them at a significant disadvantage by restricting their mobility and limiting their ability to control the Subject's actions. The UOFRB also opined that allowing the Subject to reach toward his waistband further jeopardized the officers' safety.

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 Department-approved tactical training.

Debriefing Point No. 3 Foot Pursuit Concepts – Apprehension vs. Containment

When the Subject ran from officers, he grabbed his front right waistband exposing what Officer A believed was the butt of a gun. In response, Officer A declared, "Gun, gun, gun!" to Officer B as they began to pursue the Subject on foot. Believing that the Subject was attempting to arm himself by removing the gun from his waistband, Officer A unholstered his/her pistol as he/she pursued the Subject. According to Officer B, he/she heard Officer A alert him/her to a gun but did not observe a gun at that time. He/she did observe the Subject reaching for his front waistband.

According to Officer B, once the Subject reached the intersection, he (the Subject) removed the gun from his waistband and held it in his right hand as he turned north. Officer B alerted Officer A of his/her observations stating, "Gun!" According to the officers, they intended to maintain visual contact with the Subject to establish a perimeter.

The Subject turned west into an alley, out of Officer A's view. Officer A recalled slowing his/her momentum and "pied" the corner of the alley to avoid immediate contact with the Subject. At the mouth of the alley, Officer A observed the Subject running ahead of him/her, westbound along the south side of the alley. The Subject was holding the gun in his right hand, free from his waistband. As the officers entered the mouth of the alley, both officers appeared to slow their momentum. According to Officer B, upon entering the alley, he/she did not lose sight of the Subject. As the Subject ran west into the alley, Officer B proceeded along the north side of the alley. He/she described the Subject as holding the gun pointed downward at his right side, and then beginning to raise the barrel of the gun parallel to the ground. Soon after, the OIS occurred. During the OIS, the Subject discarded his gun. After the OIS, the officers continued to pursue the Subject, subsequently apprehending him.

The BOPC noted that the UOFRB assessed Officers A and B's decision to pursue the Subject whom they believed was armed with a gun. The UOFRB noted that at the foot pursuit's inception, Officer A saw what he/she believed to be the butt of a

gun in the Subject's waistband. While Officer B did not observe the Subject's gun at that point, he/she heard Officer A alert him/her to a gun.

The UOFRB noted that officers should generally pursue armed suspects in containment mode. The UOFRB also noted that both Officers A and B stated they were pursuing the Subject in containment mode and that they maintained distances of approximately 10 to 20 feet. However, based on the Body Worn Video (BWV) footage, the UOFRB opined that Officers A and B were in apprehension mode based on their proximity to the Subject. The UOFRB also opined that a perceived distance of approximately 10 to 20 feet was not a safe distance to pursue an armed suspect while in containment mode. The UOFRB's belief was further evidenced by the officers' decision to pursue the Subject into the alley which offered them limited cover. The UOFRB did note that per the FID investigation, Officer A discharged his/her rounds from a decreasing distance of approximately 33 feet to 28 feet. Regardless, as the officers had seen the Subject running with the gun in his hand at that point, the UOFRB would have preferred they had increased their distance and/or remained at the corner of the alley and attempted to observe the Subject's movement and direction of travel from a position of cover while waiting for backup units and air support to respond. Additionally, the fact that Officer A's rounds were fired from a decreasing distance was an indication that he/she (Officer A) continued to move forward as he/she discharged his/her rounds.

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 Department-approved tactical training.

Debriefing Point No. 4 Basic Firearm Safety Rules

As Officers A and B pursued the Subject in the alley, the Subject held his gun pointed down at his right side. Officer B observed the Subject begin to raise the barrel of his gun parallel to the ground. Officer B slowed his/her pace, raised his/her service pistol in a two-handed grip, and aimed at the Subject. Believing that the Subject was going to either shoot him/her or his/her partner or attempt to throw the gun, Officer B placed his/her finger on the trigger of his/her service pistol but did not fire. Officer B then removed his/her finger from the trigger as he/she observed the Subject continue to raise the gun in a throwing motion over the top of his head.

The BOPC noted that the UOFRB assessed Officer B's adherence to the Basic Firearm Safety Rules. The UOFRB noted that during his/her interview, Officer B responded, "No," when asked if he/she intended to shoot when he/she placed his/her finger on the trigger. However, the UOFRB also noted that in the context of that portion of the interview, Officer B described an imminent deadly threat in that he/she believed the Subject was going to point the gun at him/her and shoot. Officer B also believed that the Subject may shoot Officer A or throw the gun. Instead of discharging his/her service pistol, Officer B continued to assess the Subject's actions and removed his/her finger from the trigger after the Subject threw his gun over the fence. Based on the context of Officer B's interview, the UOFRB opined that his/her decision to place his/her finger on the trigger was not a preemptive movement as his/her articulation indicated he/she intended to shoot. Based on the available

evidence the UOFRB also opined that Officer B's finger was on the trigger momentarily and that he/she removed it when the Subject no longer posed an imminent deadly threat.

During the UOFRB meeting, a Subject Matter Expert (SME) from Training Division's Tactics Unit testified that officers are trained to continually assess and react to a suspect's behavior. Per the SME, it is a proper conditioned response for an officer to raise his/her service pistol to eyelevel, align his/her sights on the target, and place his/her finger on the trigger if he/she perceives a deadly threat and intends to shoot. The SME added that officers are trained to assess before, during, and after discharging their service pistols. The SME also testified that it is a proper response for an officer to remove his/her finger from the trigger when he/she assesses that the suspect's behavior has changed and there is no longer an imminent deadly threat.

Based on the circumstances as established by the available evidence, the UOFRB determined that despite his/her statement, it was appropriate for Officer B to place his/her finger on the trigger. Thus, the UOFRB opined that his/her actions did not violate the Basic Firearm Safety Rules. Additionally, the UOFRB commended Officer B for his/her ongoing assessment and decision not to discharge his/her service pistol.

Based on its review of the available evidenced, the BOPC determined that during his/her interview Officer B articulated an imminent deadly threat and that he/she intended to shoot when he/she momentarily placed his/her finger on the trigger of his/her service pistol. In the absence of evidence to the contrary, the BOPC also determined that Officer B continued to assess the Subject's actions and removed his/her finger the moment he/she determined that the Subject was no longer an imminent deadly threat.

The decision to discharge their service pistol is one of the most critical decisions an officer will ever make. The BOPC commends Officer B for exercising restraint and adhering to the Department's guiding principal of reverence for human life. Based on the totality of the circumstances the BOPC determined that the tactics employed by Officer B were not a deviation from Department-approved tactical training.

Additional Tactical Debrief Topics

Running with Service Pistol Drawn – As Officers A and B pursued the Subject on foot, they held their service pistols. Alternatively, they could have kept their service pistols holstered as they ran, reducing the risk of an unintentional discharge

One-Handed Shooting Grip – During the foot pursuit, Officer A ran while holding his/her service pistol in one hand and his/her hand-held police radio in the other. As a result, he/she used a one-handed shooting grip during the OIS. Generally, officers should use a two-handed shooting grip. Alternatively, Officer A could have obtained a two-handed shooting platform by using either the Harries or Chapman flashlight technique as he/she held his/her rover.

Initiating Physical Contact while Holding Radio – Officer A did not holster his/her hand-held police radio before engaging in the non-lethal use of force. As a result, he/she did not have both hands free to control the Subject. Alternatively, Officer A could have holstered his/her radio before engaging in the UOF and pressed the emergency button on his/her radio to broadcast their location.

Contact and Cover Roles – During various points of this incident, Officers A and B both functioned as the cover officer, broadcasting various information. Alternatively, one officer could have functioned as the cover officer, allowing the other to focus on contact with the Subject.

Situational Awareness - While attempting to take the Subject into custody, Officer A broadcast their location as being two blocks east of their actual location. Approximately 28 seconds later, Officer A corrected their location.

B. Drawing/Exhibiting of a Firearm

Officer A

According to Officer A, as the Subject reached the sidewalk, he immediately grabbed his front right waistband with his right hand. Officer A observed the right side of the Subject's sweatshirt rise upward, exposing what Officer A believed to be the butt of a gun. Officer A is captured on BWV declaring, "Gun, gun, gun!" to Officer B. Believing that the Subject was attempting to arm himself by removing the gun from his waistband, Officer A unholstered his/her service pistol with his/her right hand as he/she pursued the Subject on foot.

Officer B

According to Officer B, once the Subject reached the intersection, he (the Subject) removed the gun from his waistband and held it in his right hand as he turned north. Officer B alerted Officer A of his/her observations stating, "Gun!" According to Officer B, he/she transitioned from the sidewalk to the street to use parked vehicles on the west side of the street for cover as the Subject continued north. After observing the Subject holding the gun, Officer B unholstered his/her service pistol, believing that the situation could escalate to the point where deadly force would be necessary.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their service pistols. The UOFRB noted that Officer A unholstered his/her service pistol once he/she observed what he/she identified as the butt of a gun in the Subject's waistband. The UOFRB further noted that Officer A alerted Officer B about the presence of a gun. Though he/she heard Officer A announce the presence of the gun, Officer B unholstered his/her service pistol only after observing the Subject holding the gun. Based on the Subject's attempt to flee from officers while armed with a gun and subsequent removal of the gun from his waistband, the UOFRB opined that it was reasonable for Officers A and B to believe that the situation may escalate to the point where deadly force may be necessary.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be necessary. Therefore, the BOPC found Officers A and B's drawing/exhibiting of a firearm to be In-Policy.

C. Non-Lethal Use of Force

The Subject reached the end of the alley and turned southbound onto the east sidewalk, appearing to slow his pace. As Officer A continued to broadcast their direction of travel, Officer B closed the distance to the Subject. He/she recalled that the Subject appeared to have slowed due to fatigue. According to Officer B, he/she could see both of the Subject's hands and felt it was safe to approach him. At 2013:05 hours, as the Subject faced away, Officer B placed his/her hands on the back of the Subject's shoulders and, using his/her forward momentum, pushed the Subject to the ground. The Subject attempted to stand and Officer B applied body weight to the Subject's back to prevent him from returning to his feet for approximately eight seconds before being joined by Officer A.

As captured on Officer A's BWV, the Subject was in a kneeling position on the sidewalk, bent forward with his right hand flat on the ground bracing his body. Officer B knelt at the Subject's left side with his/her right arm wrapped around the Subject's back as they both faced west toward the street. At 2013:13 hours, Officer A holstered his/her service pistol and grabbed the Subject's right wrist with his/her right hand as the Subject appeared to push himself up to a standing position. Officer B placed firm grips with both hands on the Subject's left wrist, and the officers attempted to pull his hands behind his back. According to both officers, the Subject continually resisted and attempted to pull away from them by straightening his arms and shifting his body back and forth. According to Officer B, he/she moved the Subject to a fence along the east sidewalk to control his movements. As the officers attempted to maintain control of his arms, the Subject spun to his left, away from Officer A's grasp. The Subject appeared to lose his balance as he pulled his left wrist from Officer B's grasp and fell to the sidewalk in a seated position. Officer B immediately acquired firm grips on the Subject's right wrist with both hands. Officer A grabbed the Subject's left wrist with his/her left hand and momentarily placed his/her right hand on the back of the Subject's neck, appearing to apply downward pressure before grabbing the Subject's left wrist with both hands as the Subject remained in a seated position.

Throughout the struggle, the officers repeatedly instructed the Subject to put his hands behind his back as he resisted their efforts to handcuff him. Officer B directed the Subject to stop resisting and relax. The Subject stated that he didn't have anything on him and continually questioned why the officers had shot at him. He also demanded to be released, stating, "You better let me go!" The Subject stood up a second time as the officers continued to struggle to control his arms. According to both officers, they had become fatigued and they can be heard breathing heavily on BWV as they repeatedly instructed the Subject to put his hands behind his back. The struggle then moved to the rear of a black sport utility vehicle parked along the east curb. The officers used forward pressure to push the Subject against the vehicle in a continued effort to control

his movement. Based on BWV, the struggle lasted approximately 2 minutes and 34 seconds before the Subject completely pulled away from the officers.

The BOPC noted that the UOFRB assessed Officers A and B's use of non-lethal force. The UOFRB noted that after an approximately one-minute-long foot pursuit and an OIS, Officers A and B initiated physical contact with the Subject to apprehend him. At the time Officer B made the initial physical contact, the Subject was attempting to flee, he had discarded his gun and his hands appeared to be empty. During the non-lethal use of force, Officers A and B attempted to forcibly place the Subject's hands behind his back for over two and a half minutes. The UOFRB noted the difficulty Officers A and B had in attempting to control the Subject. Although both officers were applying firm grips, the Subject was able to spin his body multiple times to break away from them while refusing to place his hands behind his back. Based on the Subject's level of resistance, the UOFRB opined that while struggling to control him, the officers should have transitioned to other techniques such as strikes or the use of less-lethal force, specifically a TASER. Based on the totality, the UOFRB opined that Officers A and B's use of body weight and firm grips were objectively reasonable and proportional to control the Subject.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A and B, in the same situation, would reasonably believe that the use of non-lethal force was proportional and objectively reasonable. Therefore, the BOPC found Officers A's and B's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

Officer A – TASER, one five-second activation in probe mode from approximately 12 feet.

At 2015:39 hours, the Subject spun his body and pulled away from the officers' grasp stating, "Let me go dog!" According to Officer A, the Subject was able to "break free" from officers, turned around, and appeared to "square up" to "fight" officers. Believing that the Subject was taking a fighting stance, Officer A unholstered his/her TASER and prepared to discharge it. Simultaneously, Officer B warned the Subject, "I'm going to tase you, bro!" The Subject then turned away from the officers and began running toward the west side of the street. According to Officer A, he/she was aware of a multi-unit, bungalow-style apartment complex located on the west side of the street. When the Subject turned to run in that direction, Officer A became concerned that the Subject was going to run into that property, posing a danger to its residents. Officer A felt "tired" after running a "quarter mile" and "struggling" for "two minutes" with the Subject; Officer A did not know "how much more" he/she had "left" in him/her and wondered what was "taking so long" for backing units to arrive.

At approximately 2015:41 hours, Officer A followed the Subject into the street. As the Subject reached the center of the street, Officer A discharged the TASER in "probe mode" from approximately 12 feet away, striking the Subject with the probes, appearing to cause neuro-muscular incapacitation (NMI). The Subject immediately fell to the street.

Officer A did not provide a warning before firing the TASER. According to Officer A, he/she was aware that Officer B warned the Subject that he/she would be tased. Officer A, however, felt that he/she did not have the opportunity to provide a warning due to his/her fatigue and the Subject's sustained physical resistance.

The BOPC noted that the UOFRB evaluated Officer A's use of less-lethal force. The UOFRB noted that after struggling with officers for approximately two and a half minutes, the Subject broke free from the officers' firm grips. The UOFRB also noted that Officer A observed the Subject "square up" toward him/her and believed he/she was ready to fight with officers. In response, Officer A unholstered his/her TASER while Officer B simultaneously warned the Subject he would be tased. The Subject then turned toward the street and began to run from officers. Officer A followed the Subject, tasing him in the process.

The UOFRB Majority noted that after chasing the Subject on foot for approximately one minute and then physically struggling with him for over two minutes, the officers were fatigued. The UOFRB Majority noted that despite their efforts, Officers A and B were unable to overcome the Subject's resistance. The UOFRB Majority also noted that when less-lethal force was used, no additional units were present or had advised CD they were responding. The UOFRB Majority opined that the application of the TASER was a continuation of the ongoing use of force and ensured the incident did not escalate to a second OIS. The UOFRB Majority also opined the alternative to less-lethal force would have been for officers to re-engage in non-lethal force, during which the Subject likely would have violently resisted. The UOFRB Majority noted that while the TASER should not generally be used on a fleeing subject, based on the totality of the circumstances, including the uncertainty of responding resources, officer fatigue, and the likelihood that the Subject would continue to violently resist arrest, they opined that Officer A's use of a TASER was objectively reasonable and proportional.

While the UOFRB Minority also noted that Officers A and B were fatigued, they opined that the less-lethal use of force was not a continuation of the non-lethal use of force and should be evaluated based on the circumstances at the point when the TASER was used. The UOFRB Minority noted that when he was tased, the Subject was fleeing, not violently resisting. As such, the UOFRB Minority opined that the Subject did not pose an immediate threat to officers at that point. While the officers were concerned that the Subject was running toward a multi-unit, bungalow-style apartment complex, per the BWV footage, the UOFRB Minority opined there was no indication the Subject posed an immediate threat to the public at that point either. The UOFRB Minority also noted that per Department policy, the TASER generally should not be used on a fleeing subject. As noted above, the Subject was fleeing when he was tased. The UOFRB Minority did not see a justification for tasing the Subject as he fled. Based on their level of fatigue, the UOFRB Minority would have preferred that officers had monitored and attempted to contain the Subject until additional resources arrived. Based on the totality of the circumstances, specifically the Subject's attempt to flee from officers, the lack of an imminent threat of violence posed by the Subject at that point, and available alternative de-escalation techniques, the UOFRB Minority opined that Officer A's use of the TASER was not objectively reasonable.

Based on the totality of the circumstances, by a 4-1 vote, 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 less-lethal force was proportional and objectively reasonable. Therefore, the BOPC found Officer A's less-lethal use of force to be Out of Policy.

E. Lethal Use of Force

Officer A – (Pistol, 2 rounds)

Round One - Officer A recalled observing the Subject turn his head to the right and look back toward Officer B. Officer A added that upon doing so, the Subject began to raise the barrel of the gun with his right hand and extend it rearward toward Officer B as he continued to run. Believing the Subject was going to shoot, and fearing for his/her partner's life, Officer A raised his/her service pistol in a single-handed grip with his/her right hand. Officer A fired one round in a westerly direction at the Subject's rear torso from approximately 33 feet, as the Subject continued west, away from the officers. According to Officer A, he/she believed that his/her only option to stop the threat to his/her partner was to fire his/her service pistol. According to Officer B, his/her attention was focused on the gun in the Subject's hand and he/she did not observe the Subject look in his/her direction.

Round Two - According to Officer A, after firing his/her first round, he/she observed the Subject lower the gun, pointing the muzzle toward the ground, then swing the gun across his body, from right to left, resulting in the barrel briefly positioned parallel to the ground at chest level, exposing the muzzle on the left side of the Subject's body. Officer A recalled that the Subject simultaneously turned his head to the left, appearing to look over his left shoulder. Officer A believed the Subject was attempting to acquire him/her as a target and was in the process of turning to shoot. Based on the Subject's action, Officer A fired a second round in a westerly direction, from approximately 28 feet, as he/she moved forward, holding his/her service pistol in his/her right hand with a single-handed grip.

The BOPC noted that the UOFRB assessed the proportionality, objective reasonableness, and necessity of Officer A's lethal use of force. As it pertains to his/her first round, the UOFRB noted that Officer A had observed the Subject turn his head to the right and look back toward Officer B. Officer A added that upon doing so, the Subject began to raise the barrel of the gun with his right hand and extend it rearward toward Officer B. According to Officer A, he/she believed that his/her only option, to stop the threat to his/her partner, was to fire his/her pistol. Believing the Subject was going to shoot, and fearing for his/her partner's life, Officer A discharged his/her first round at the Subject. Based on the totality of the circumstances, the UOFRB opined that when he/she discharged his/her first round, it was reasonable for Officer A to believe the Subject posed an imminent threat of death or serious bodily injury to Officer B.

Regarding Officer A's second round, the UOFRB noted that according to Officer A, after firing his/her first round, he/she observed the Subject swing the gun across his body, from right to left, resulting in the barrel being briefly positioned parallel to the ground at

chest level, exposing the muzzle on the left side of the Subject's body. Officer A also recalled that the Subject simultaneously turned his head to the left, appearing to look over his left shoulder. Based on his/her observations, Officer A believed the Subject was attempting to acquire him/her as a target and was in the process of turning to shoot. Based on the Subject's action, Officer A fired his/her second round at the Subject. Based on the totality of the circumstances, the UOFRB opined that when he/she discharged his/her second round it was reasonable for Officer A to believe the Subject posed an imminent threat of death or serious bodily injury to him/her.

The UOFRB noted that based on the BWV footage, the Subject was ostensibly in the process of throwing the gun when the OIS occurred. The UOFRB also noted that Officer A fired his/her second round after the Subject lowered his/her arm from the throwing motion. In further assessing Officer A's lethal use of force, the UOFRB considered that the lighting conditions in the alley and Officer A's position in relation to the Subject could have affected his/her perception of the Subject's actions. Unlike Officer B who was offset to the Subject's right, Officer A was behind the Subject.

The UOFRB also considered the time it takes the average officer to perceive and respond to a threat. Per the SME, in controlled studies, it takes the average officer 0.07 to 1.5 seconds to identify and then react to a stimulus. Per the SME, these times may be greater outside of a controlled environment with factors such as low light, fatigue, exertion, and adrenaline. The UOFRB noted that based on the BWV footage, FID investigators determined that the Subject's right arm appeared to be extended rearward 0.409 seconds before Officer A discharged his/her first round. Officer A then appeared to discharge his/her first round as the Subject was completing the throwing motion with his right arm. Officer A appeared to discharge his/her second round after the Subject lowered his/her arm from the throwing motion, 0.855 seconds after discharging his/her first round. The UOFRB opined that both rounds were fired after each perceived deadly threat and that perception-reaction time was a factor in Officer A's assessment of an imminent deadly threat. The UOFRB opined that Officer A's decision to discharge his/her service pistol was based on a reasonable belief that the Subject posed an imminent deadly threat to his/her partner and him/her respectively and that such force was proportional and necessary to stop the threat.

The BOPC noted that when viewed at full speed, the BWV footage did not appear to depict some of the Subject's actions as described by Officer A, and that some of these actions were discernable only when viewing still frames of the footage. While a valuable law enforcement tool, BWV cannot provide all aspects of what an officer observes and or perceives. As such, the BOPC believes that based on the available evidence, Officer A's description of the Subject's actions was reasonable.

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 lethal force was proportional, objectively reasonable, and necessary. Therefore, the BOPC found Officer A's lethal use of force to be In Policy.