

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

OFFICER-INVOLVED SHOOTING – 066-21

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

West Valley 12/24/21

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

Officer A 13 years, 4 months

Reason for Police Contact

On Friday, December 24, 2021, officers responded to a radio call of a “Shooting Just Occurred.” As the officers arrived, they observed the Subject walking in a roadway. The Suspect pointed a handgun at the officers resulting in an Officer-Involved Shooting (OIS).

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

Male, 26 years of age.

Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (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 December 6, 2022.

Incident Summary

On Friday, December 24, 2021, at approximately 1027 hours, Witness A was inside her residence when she heard a gunshot. Witness A's nephew entered the kitchen and informed her that her sister's ex-boyfriend, the Subject, had a gun. Witness A looked out her kitchen window and observed the Subject pacing back and forth on the east side of her residence. The Subject then went into Witness A's backyard and entered an attached storage room, which Witness A's sister used as a bedroom. Witness A heard the Subject cursing and throwing items inside of the room. Less than a minute later, the Subject exited the property and walked north.

Witness A called 911 and reported the shooting. Additionally, Witness A advised that her sister currently had a restraining order against the Subject. In response, Communications Division (CD) broadcast a call of a "Shooting Just Occurred." The call was upgraded to a "Possible ADW Domestic Violence Suspect" based on the additional information provided by Witness A.

Simultaneous to Witness A's 911 call, a second community member called 911 and reported a man with a firearm. The caller told the operator he observed the Subject fire a shot and then put the gun in his pants. In response, CD broadcast an additional radio call of "ADW shots fired."

Officers C and D were assigned the calls and responded Code Three (with their vehicle's emergency lights and siren activated). Sergeant A advised CD that he/she was also responding to the call. Air Support Division Sergeant B and Police Officer E also responded to the calls.

While the officers were en route, Witness B was working on his truck when he observed the Subject walk past him. According to Witness B, the Subject pointed a pistol in the air and attempted to fire it. The Subject then manipulated the pistol, pointed it in the air, and again attempted to fire it. The Subject manipulated the pistol again and upon his third or fourth attempt, fired a shot in the air. Witness B called 911 and reported the shooting.

The Air Unit arrived overhead and began searching for the Subject. Shortly thereafter, Officer E located the Subject in the east-west alley. Officer E observed the Subject walking west while holding a handgun and alerted Sergeant B that the Subject was armed, before he/she broadcast a backup for a "man with a gun." While monitoring the Subject through binoculars, Officer E observed him raise the handgun and point it in the direction of the helicopter. Sergeant B observed the Subject raise his arm and, believing he had a gun, altered the helicopter's flight path in an effort to use the nearby buildings for cover.

After pointing the handgun at the Air Unit, the Subject walked north and under a carport. Security video shows that as the Subject walked through the carport, he used his left hand to partially retract the handgun's slide. Security video also shows that after

retracting the handgun's slide, the Subject walked out from the carport and again raised his handgun in the air. As he did so, the Subject moved his finger to the trigger and appears to have fired a round.

The Subject then walked north through the apartment complex before he exited onto the sidewalk and continued walking north onto the eastbound lanes of the street. Once there, the Subject turned and walked west in the eastbound number two lane. As he did so, Officers A and B were traveling east in the number three lane. They observed the Subject approximately 250 feet away, walking toward them. According to Officers A and B, while responding to the incident, they assumed they would be assisting with containment, and they responded Code Two (urgent, but not life-threatening).

Moments later, Officers A and B both observed the Subject holding a handgun. As Officer A slowed the police vehicle, he/she observed the Subject raise the handgun and point it in his/her direction. Officer A stopped their police vehicle and placed it in park. He/she stood behind the ballistic door with his/her left foot on the ground and his/her right foot on the floorboard of the vehicle. Simultaneously, Officer B exited the passenger side and stood behind his/her ballistic door.

According to Officer A, as he/she exited his/her police vehicle, he/she observed the Subject raise the handgun and point it at him/her a second time. In response, Officer A unholstered his/her duty pistol, aimed at the Subject's chest, and fired one round from an approximate distance of 190 feet.

Immediately after Officer A fired, the Subject moved approximately 26 feet south onto a grassy area between the street and the sidewalk. According to Officer A, while there, the Subject raised his handgun and pointed it at Officer B. Approximately seven seconds after his/her first shot, while still behind the ballistic door, Officer A aimed at the Subject's chest and fired a second round from an approximate distance of 200 feet. The round struck the Subject on the left side of his head. The Subject fell to the ground and dropped his handgun.

After firing his/her second shot, Officer A attempted to direct a driver, who was parking his vehicle at the southeast corner, away from the area as the vehicle was now in the line of sight between him/her and the Subject. Officer A then activated his/her body-worn video (BWV) camera.

According to Officer B, as he/she and Officer A traveled east, he/she observed the Subject walking west toward them on the street. He/she observed the Subject holding the gun down at his side. When Officer A stopped the vehicle, Officer B exited, activated his/her BWV camera, and ordered the Subject to drop the gun. He/she then observed the Subject move south between the parked vehicles on the south side of the street before he/she heard two gunshots and observed the Subject fall to the ground.

At the time of Officer A's first shot, the Air Unit was orbiting overhead while Officer E positioned officers on the perimeter; he/she did not observe Officer A's first shot. Prior

to the OIS, Officer E observed the Subject walking west on the street. He/she next observed the Subject on the south sidewalk. At that time, the Subject was in a shooting stance with his handgun pointed west toward Officers A and B.

Officer E then observed the Subject fall to the sidewalk, which caused him/her to believe that an OIS had occurred. In response, Officer E broadcast a Help Call and requested a rescue ambulance (RA) for the Subject.

Background

Upon inspecting the scene and relevant video evidence, Force Investigation Division (FID) investigators determined that Officer A fired both shots from his/her position behind the ballistic door of his/her vehicle. The background of his/her first shot included the number two lane of the street, east of the cross street, and the unoccupied vehicles parked at the south curb. The background of his/her second shot was a two-story apartment building located approximately 50 feet beyond the Subject. Additionally, wood and wrought iron fences fortified the front of the property.

Post OIS and Arrest Tactics

Immediately after the OIS, Sergeant A arrived and declared himself/herself the Incident Commander. He/she subsequently joined Officers C, D, F, and G, who were positioned approximately 75 feet north of the Subject, behind a tree in the median. Officer E advised the officers that the Subject was on the ground, but still moving, and his handgun was approximately 10-15 feet away.

According to Sergeant A, he/she was concerned that the Subject could re-arm himself, which could lead to another OIS. He/she also knew that the Subject needed medical attention, which could not be provided until he was in custody.

Approximately two minutes after the OIS, Sergeant A and Officers C, D, F, and G moved south from the median to the Subject. Before directing the team to approach, Sergeant A advised other units at scene that the arrest team would be moving forward to take the Subject into custody. Officer C, who was equipped with a police rifle, and Officer G, who was equipped with a 40 millimeter Less-Lethal Launcher (40mm LLL), provided cover. Officers F and D handcuffed and searched the Subject before placing him in a left-lateral recumbent position approximately 12 seconds later. Officer C observed the handgun on the ground east of the Subject and stood over it to preserve the evidence.

The Subject sustained a single gunshot wound to the left side of his head. While waiting for the RA to arrive, Officer H monitored the Subject's vital signs while Officer F applied gauze to the wound on the Subject's head.

Approximately six minutes after the Subject was handcuffed, Los Angeles Fire Department (LAFD) RA, staffed by Firefighter Paramedics arrived at the scene and

treated the Subject for a gunshot wound to the left side of his head. At 1057 hours, the RA transported the Subject to the hospital, where he was treated for a non-penetrating gunshot wound to the head. The Subject was released from the hospital approximately one month later, on January 29, 2022.

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

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer H	Yes	Yes	Yes	Yes	Yes
Officer I	Yes	Yes	Yes	Yes	Yes
Sergeant A	Yes	Yes	Yes	N/A	N/A

Los Angeles Board of Police Commissioners’ Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC’s review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found the tactics of Officers A, B, D, H, I, and Sergeant A to warrant a Tactical Debrief.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their

duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- To the extent of the officer's training and experience in first aid/CPR/AED; and

- To the level of equipment available to the officer at the time assistance is needed.

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

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

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

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

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

Definitions

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

Feasible: Feasible means reasonably capable of being done or carried out under the

circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

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

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

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

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

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

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

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

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

A. Tactics

Tactical De-Escalation Techniques

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

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

Planning – Over the past few years, Officers A and B had worked together approximately five times. During those occasions, the officers discussed tactics such as contact and cover and de-escalation concepts; however, while responding to the location, they did not develop a specific plan of approach, as the officers believed they were responding for containment purposes. The BOPC noted that the UOFRB would have preferred that a specific planning discussion between the officers had occurred instead of presuming they would assist with containment.

Officers C and D had worked together for over three deployment periods. They have responded to various tactical, back-up, and help calls in which they discussed de-escalation, less-lethal options, and the concept of contact and cover. Officer C read the incident comments to his/her partner and discussed contact and cover officer roles and de-escalation while responding to this call.

Officers F and G had worked together for about five months; and while they had discussed the concepts of contact and cover, and de-escalation techniques on prior occasions, it was not discussed before responding to this help call. The BOPC noted that the UOFRB would have preferred that specific planning had occurred while responding to the call.

Officers I and J had worked together for over one year. They had discussed tactics, specifically, contact and cover roles, less-lethal options, de-escalation techniques, and debriefed after incidents. Officers I and J considered contact and cover officer roles for this incident.

Officer H was deployed and responded to the incident as a single-person unit. He/she assisted officers in providing medical treatment and monitoring the Subject's vitals upon arriving at the scene.

Assessment – Officers A and B arrived at the call and observed the Subject walking toward them. Moments later, Officers A and B both observed the Subject holding a handgun.

After discharging his/her first round, Officer A assessed whether he/she had struck the Subject, if he had been disabled, and if he stopped being a threat. According to Officer A, while assessing, he/she observed the Subject raise his handgun and point it at Officer B.

Arriving at the location, both Officers F and G assessed the scene and noticed that an arrest team was being formed by Officers C and D. Officers F and G embedded themselves as part of the arrest team.

Before the arrest team approached the Subject, Sergeant A assessed by communicating with the Air Unit and obtaining information related to the Subject's injuries, location, and proximity to the handgun. Observing the gun lying approximately 10-15 feet from the Subject, Officer E suggested that if the officers were going to make their approach, they should do it forthwith. Concerned that the Subject may attempt to reacquire the handgun and knowing that he needed medical attention, Sergeant A directed his/her arrest team to move forward and apprehend the Subject before he rearmed himself, risking an additional OIS.

Time/Redeployment and/or Containment – Believing that the Subject was aiming his handgun at the police helicopter, Sergeant B altered the flight path to use the nearby buildings for cover. As Officer A slowed the police vehicle, he/she observed the Subject raise the handgun and point it in his/her direction. To create distance, Officer A stopped their police vehicle; the officers were approximately 190 feet from the Subject. Officers A and B exited their police vehicle and stood behind their respective doors. This allowed officers to use distance and cover to create time to communicate with the Subject. The Subject, however, did not respond to the officers' commands to drop his gun and instead pointed it at the officers. The Subject's actions limited the officers' ability to de-escalate the situation.

Other Resources – As indicated above, multiple units, a supervisor, and air support responded to this incident. The officers were equipped with lethal and less-lethal options. Based on the BWV footage, multiple units and air support were at the scene when the OIS occurred. Following the OIS, Sergeant A used the Air Unit to guide his/her team's approach. Sergeant A's team had lethal and less-lethal options when they approached the Subject. As they moved forward, Officers were cognizant of the cover afforded them by the numerous vehicles parked along the sidewalk.

Lines of Communication – Officer B observed the Subject walking toward them with a handgun and immediately communicated his/her observations to his/her partner. Officer B got out of the vehicle once it stopped and yelled to the Subject to drop the gun. Officer D observed the Subject holding and pointing a pistol with outstretched arms at a police unit to the west. Officer D communicated his/her observations to his/her partner, Officer C. After the OIS, Officer E observed the Subject fall to the sidewalk, which caused him/her to believe that an OIS had occurred. In response, Officer E broadcast an officer help call and requested a RA for the Subject. After the OIS, Officer B advised Officer A that the Subject was down. After firing his/her second shot, Officer A attempted to direct the driver of a blue Buick sedan, who was parking his vehicle at the southeast corner of the street, away from the area, as the vehicle was now in the line of sight between him/her and the Subject. Officer A also advised officers to hold their positions, use the wall of an apartment building as cover, and form a “stick” to approach the Subject.

Before Sergeant A and his/her team approached the Subject, the Air Unit advised units of the Subject’s location, the position of his handgun, and that he was moving his body as he lay on the ground. Before approaching the Subject with his/her team, Sergeant A advised all units via his/her police radio that they were approaching.

Throughout the incident, officers communicated with each other, providing updates, inquiring about the Subject’s whereabouts, and determining if he was still armed.

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

1. Code Six

Officers A and B responded to this incident Code Two (urgent, but not life threatening); however, they did not advise CD that they were responding or Code Six (had arrived on scene). According to the officers, the Air Unit was broadcasting its observations and directing units, so they did not want to tie up the frequency.

Arriving at the scene, Sergeant A spoke with Officer K to assess the situation and orientate himself/herself to the Subject’s location. After speaking with Officer K, Sergeant A heard gunshots and a help call broadcast by the airship. Sergeant A then advised CD that he/she was Code Six and identified himself/herself as the incident commander (IC). This was approximately 25 seconds after the OIS.

The BOPC noted that the UOFRB assessed Officers A, B, and Sergeant A’s adherence to the Code Six policy. The UOFRB noted that the Code Six policy’s intent is to advise CD of an officer’s location if assistance is needed. As it pertains to Officers A and B, the UOFRB noted that other officers were close by when they arrived at the scene and that the frequency was occupied by the Air Unit who was overhead relaying information to ground units. The UOFRB also noted that Officers A and B were immediately confronted by the Subject who pointed a handgun at them as they arrived. The UOFRB further noted that following the OIS, the Air Unit broadcast the officer help call. While the UOFRB would have preferred that Officers

A and B had advised CD that they were Code Six, the UOFRB opined that officers knew their location and were able to assist as needed.

Regarding Sergeant A, the UOFRB noted that when he/she arrived at the scene, he/she met with officers as the Air Unit relayed information to ground units. The UOFRB also noted soon after he/she arrived, Officers A and B were confronted by the Subject and the OIS occurred. Sergeant A then advised CD he/she was Code Six, met with the arrest team, and oversaw the Subject's swift apprehension. While the UOFRB would have preferred that Sergeant A had advised CD that he/she was Code Six, the UOFRB opined that his/her delay in advising CD that he/she was Code Six was due in part to the frequency being occupied. The UOFRB also opined that during the time between his/her arrival and advising CD he/she was Code Six, officers knew his/her location and would have been able to assist if needed.

Based on the totality of the circumstances, the BOPV determined that the tactics employed by Officers A, B, and Sergeant A were a substantial deviation, with justification, from Department-approved tactical training.

2. Handcuffing Protocols

After he was handcuffed, officers placed the Subject on his side. Officer H arrived at the scene after the Subject was apprehended. He/she rendered aid and monitored the Subject's pulse until the RA arrived.

Before the RA's arrival, the Subject rolled from his left side to a semi-prone position several times. Each time the Subject did so, he was moved back to his left side. According to Officer H, moving the Subject to his side increased bleeding. In response, Officer H advised officers to "leave him where he is." The Subject remained semi-prone for approximately 2 minutes 38 seconds before the RA arrived. While awaiting the RA's arrival, Officer F applied direct pressure to the Subject's wound as Officer H continued monitoring his pulse. Officer D used both his/her hands to control the Subject's right hip, while Officer I maintained control of his legs.

The BOPC noted that the UOFRB assessed Officers D, H, and I's adherence to the handcuffing policy. The UOFRB noted that approximately 12 seconds after he was handcuffed, the Subject was placed on his side and assessed for injuries. Officers attempted to hold the Subject on his side, but he appeared to willingly roll semi-prone. Observing that being on his side increased the Subject's bleeding, Officer H determined it was best to allow him to lay semi-prone until the RA arrived. The UOFRB noted that during that time, officers had obtained medical equipment, applied direct pressure to his wound, and monitored his condition. Based on their actions, the UOFRB opined that the officers demonstrated a reverence for human life and were attempting to mitigate the Subject's injuries. The UOFRB further noted that in July 2022, the Department modified its handcuffing policy to acknowledge that there may be unique situations where moving the Subject to the recovery position may not be advisable due to an injury. While this was not part of the

Department's policy at the time of this incident, the UOFRB opined that had it been, the tactics employed by Officers D, H, and I would not have deviated from Department-approved tactical training. As such, the UOFRB opined that the tactics employed by Officers D, H, and I here were a substantial deviation, with justification, from Department-approved tactical training

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers D, H, and I were a substantial deviation, with justification, from Department-approved tactical training.

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

Additional Tactical Debrief Topics

- **Cover and Concealment** – After the OIS, Officers A and B momentarily moved away from the cover of their ballistic doors to assess the status of the suspect and if he was still armed. They attempted to communicate with officers and the driver of a blue Buick sedan that had parked on the corner blocking Officer A's view of the Subject. Alternatively, Officers A and B could have remained behind cover while communicating with the officers, gathering information on the suspect's status, and redirecting the civilian.
- **Stepping on Suspect's Limbs** – Officer D placed his/her right foot on the Subject's left leg on two occasions to limit his movements while he/she donned his/her protective gloves. The Subject did not sustain any injuries due to Officer D's actions, there was no risk of Officer D being thrown off balance, and it did not rise to the level of a reportable use of force. Alternatively, he/she could have knelt and used his/her legs to limit his movements.
- **Broadcasting Pertinent Information** – While the Subject was being tracked by the Air Unit, Sergeant B and Officer E witnessed him point his handgun at the police helicopter; however, this information was not relayed to ground units. Alternatively, they could have done so.

Command and Control

- Sergeant A arrived at the scene and assessed the situation. He/she then declared himself/herself as the IC. After the OIS, Sergeant A joined Officers C, D, F, and G in the center median of the street. Officers C, D, F, and G had formed an arrest team and deployed a 40mm LLL. Officer C was the designated cover officer, followed by Officer G as the less-lethal cover officer, and Officers D and F as the arrest team. Officers C, D, F, and G were positioned approximately 75 feet north of the Subject behind a tree in the center median, using it as cover.

Upon being informed of the Subject's location, status, and the approximation of the Subject's handgun, Sergeant A became concerned that he would re-arm himself, which could lead to another OIS. He/she also knew the Subject needed medical attention, but the officers could not render aid until he was in custody. In response, Sergeant A directed Officers C, D, F, and G to move forward and apprehend the Subject. Before directing the team to approach, Sergeant A advised other units at the scene that the arrest team would be moving forward. The BOPC noted that, while the UOFRB would have preferred Sergeant A had verified the team's roles, it was clear that Officer C was the lethal cover officer and that Officer G was the less-lethal cover officer. Additionally, Officer D's hands were free, indicating that he/she was hands-on; Officer F subsequently holstered his/her service pistol and assisted with handcuffing. Although the UOFRB would have preferred Sergeant A had ensured the team members were ready to move forward, the UOFRB understood Sergeant A's sense of urgency and opined that his/her actions were reasonable based on the situation.

After overseeing the Subject's apprehension, Sergeant A broadcast Code 4 (no additional assistance needed at scene), requested an RA, directed officers to secure the crime scene, and identified the involved officers. Identifying Officer A as the officer who discharged his/her service pistol, Sergeant A ensured that he/she was separated and monitored and that his/her Public Safety Statement was obtained after his/her BWV was deactivated. Sergeant A also requested three additional supervisors to assist with separating and monitoring.

The BOPC determined that Sergeant A's actions were consistent with Department supervisory training and expectations of field supervisors during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC determined that the actions of Officers A, B, D, H, I, and Sergeant A were a substantial deviation, with justification, from Department-approved tactical training.

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

B. Drawing and Exhibiting of a Firearm

• Officer A – First Occurrence

According to Officer A, as he/she exited his/her police vehicle, he/she observed the Subject raise the handgun and point it at him/her a second time. In response, Officer A unholstered his/her duty pistol. Based on the situation, Officer A believed

that the Subject had threatened his/her life and would have shot him, causing serious bodily injury or death.

- **Officer A – Second Occurrence**

After holstering his/her handgun, Officer A realized that the Subject had not been accounted for and was not sure if he would “jump” back out onto the street or come back at them and assume a shooting position again.

- **Officer B**

According to Officer B, as he/she and Officer A traveled east, he/she observed the Subject walking west toward them on the street. He/she observed the Subject holding the gun down at his side. When Officer A stopped the vehicle, Officer B unholstered his/her duty pistol and told the Subject to put down the gun. Officer B believed he/she may have to use his/her service pistol to protect himself/herself and others from great bodily injury or death.

- **Officer D – First Occurrence**

As Officers C and D made a left turn and got closer to the incident, they observed the Subject holding a gun and pointing it at another unit. Officer D believed the incident could escalate to a deadly force encounter, so he/she unholstered his/her service pistol as he/she exited his/her vehicle.

- **Officer D – Second Occurrence**

Officer D unholstered his/her duty pistol as the team was preparing to approach the Subject. Officer D could not see the Subject’s gun and he/she believed the situation could still escalate to a point where deadly force would be necessary. Before approaching, Officer D holstered his/her service pistol.

The BOPC noted that the UOFRB assessed Officers A, B, and D’s drawing and exhibiting of their service pistols. The UOFRB noted that they all observed the Subject with a gun in his hand when they arrived at the scene. Officer A observed the Subject pointing the gun in his/her direction. Officer D saw the Subject pointing the gun toward Officers A and B. As such, the UOFRB opined that it would have been reasonable for the officers to believe the situation might escalate to the point where deadly force would be justified. As it pertains to Officers A and D’s second drawing and exhibiting, the UOFRB noted that the Subject had not been apprehended and could have reacquired his handgun. Per the Air Unit, the Subject was moving around as he lay on the ground and his gun was approximately 10-15 feet away from him. Based on the Subject’s actions before and after the OIS, the UOFRB opined that it would have been reasonable for the officers to believe the situation might again escalate to the point where deadly force would be justified.

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

C. Lethal Use of Force

- **Officer A** – Two pistol rounds fired from an increasing distance of 190 feet to 200 feet.
- **Background** – Upon inspecting the scene and relevant video evidence, FID investigators determined that Officer A fired both shots from a position behind the ballistic door of his/her vehicle. The background of his/her first shot included the number two lane of the street and the unoccupied vehicles parked at the south curb. The background of his/her second shot was a two-story apartment building located approximately 50 feet beyond the Subject. Additionally, wood and wrought iron fences fortified the front of the property.
- **Foreground** - At the time of Officer A's first shot, a blue Buick sedan was conducting a right turn onto the street; the Subject was walking in the number two lane of the street. At the time of Officer A's second shot, the blue Buick sedan was stopped in the number two lane of the street; the Subject was approximately 26 feet south of the street, on a grassy area between the street and the sidewalk. Per the FID investigation, the blue Buick sedan was not in Officer A's direct line of fire during either round.

- **Officer A – Round 1**

According to Officer A, as he/she exited his/her police vehicle, he/she observed the Subject raise the handgun and point it at him/her a second time. In response, Officer A unholstered his/her duty pistol, aimed at the Subject's chest, and fired one round from approximately 190 feet. The round did not strike the Subject. The FID investigation did not determine an associated impact.

- **Officer A – Round 2**

Immediately after Officer A fired, the Subject moved approximately 26 feet south onto a grassy area between the street and the sidewalk. According to Officer A, while there, the Subject raised his handgun and pointed it at Officer A. Approximately seven seconds after his/her first shot, while still behind the ballistic door, Officer A aimed at the Subject's chest and fired a second round from approximately 200 feet. The round struck the Subject on the left side of his head. The Subject fell to the ground and dropped his handgun.

The BOPC noted that the UOFRB assessed the proportionality, objective reasonableness, and necessity of Officer A's lethal use of force. The UOFRB noted that Officer A heard a radio call for possible shots fired and started responding. As he/she drove toward the scene, Officer A heard additional radio calls regarding gunshots. As Officer A arrived at the scene, he/she observed the Subject armed with a handgun. According to Officer A, the Subject pointed the handgun at him/her. According to Officer A, as he/she stopped and exited his/her police vehicle, the Subject pointed the handgun at him/her again. While the video quality is low, per Officer A's DICV, the UOFRB opined that the Subject appeared to assume a shooting stance and point his arm toward Officer A. The UOFRB also noted the security video footage which depicted the Subject armed with, and possibly discharging, a handgun before the OIS. Based on the Subject's actions, the UOFRB opined that it was reasonable for Officer A to believe the Subject was going to shoot at, and possibly kill or seriously injure, him/her. The UOFRB also opined that it was not reasonably safe and feasible for Officer A to use other available resources and techniques before discharging his/her first round.

As it pertains to his/her second round, the UOFRB noted that according to Officer A, after discharging his/her first round, he/she assessed whether his/her first round had struck the Subject, if he had been disabled, and if he stopped being a threat. According to Officer A, while assessing, he/she observed the Subject raise his handgun and point it at Officer B. Based on his/her observations and the Subject's actions, the UOFRB opined that it was reasonable for Officer A to believe that his/her partner would be shot and suffer serious bodily injury or death if he/she (Officer A) did not act. The UOFRB also opined that it was not reasonably safe and feasible for Officer A to use other available resources and techniques before discharging his/her second round.

In terms of the distances from which Officer A discharged his/her rounds, the UOFRB noted that during firearms qualification, the maximum distance officers shoot is between 17 and 25 yards, depending on the course. Per a Subject Matter Expert from Training Division, although Department firearms training does not involve shooting pistols at a distance of 200 feet, the Glock pistol is capable of accurately striking its intended target at this distance if officers follow the fundamentals of shooting taught in the academy. The UOFRB noted that during his interview with FID, Officer A was asked if he/she was concerned with the accuracy of his/her service pistol given the distance. In response, Officer A indicated that he/she resorted to his/her academy training, using the fundamentals he/she was taught to take the "best shot" he/she could. The UOFRB also noted that Officer A's second round struck the Subject, albeit in the head, not the torso. What is more, the UOFRB noted that Officer A did not choose the distance, the Subject did when he pointed his handgun at the officers, forcing Officer A to act in defense of his/her and his/her partner's lives.

In terms of Officer A's background, the UOFRB noted that according to Officer A, he/she knew his/her background was the unoccupied vehicles and that there was no pedestrian traffic. In terms of his/her foreground, the UOFRB noted that when FID investigators asked if the blue Buick sedan was in his/her foreground during any of his/her shots, Officer A replied that it was not and that during the alignment of his/her

sights on the Subject, there was no vehicle. Additionally, as stated above, per the FID investigation, the blue Buick sedan was not in Officer A's direct line of fire during either round.

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