

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

**OFFICER-INVOLVED SHOOTING (OIS) – 001-22**

| <b>Division</b> | <b>Date</b> | <b>Duty-On ( ) Off (X)</b> | <b>Uniform-Yes ( ) No (X)</b> |
|-----------------|-------------|----------------------------|-------------------------------|
|-----------------|-------------|----------------------------|-------------------------------|

|              |         |  |  |
|--------------|---------|--|--|
| Outside City | 1/10/22 |  |  |
|--------------|---------|--|--|

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
|--|--------------------------|

|           |         |
|-----------|---------|
| Officer A | 3 years |
|-----------|---------|

**Reason for Police Contact**

An off-duty police officer and a witness were approached on the street by multiple Subjects armed with firearms and robbed at gunpoint. During the robbery, an exchange of gunfire occurred. The officer was struck by one of the Subjects' rounds. The Subjects then fled the location with the victims' property. Los Angeles County Sheriff's Department (LASD) deputies responded to the incident and transported the gravely injured officer to a local hospital, where he/she later died from his/her injuries.

| <b>Subject</b> | <b>Deceased ( )</b> | <b>Wounded ( )</b> | <b>Non-Hit ( )</b> |
|----------------|---------------------|--------------------|--------------------|
|----------------|---------------------|--------------------|--------------------|

|                                     |              |             |             |
|-------------------------------------|--------------|-------------|-------------|
| Subject 1, Male, 29 years of age.   | Deceased ( ) | Wounded ( ) | Non-Hit (X) |
| Subject 2, Male, 22 years of age.   | Deceased ( ) | Wounded (X) | Non-Hit ( ) |
| Subject 3, Male, 34 years of age.   | Deceased ( ) | Wounded ( ) | Non-Hit (X) |
| Subject 4, Female, 18 years of age. | Deceased ( ) | Wounded ( ) | Non-Hit (X) |

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force (CUOF) incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on December 13, 2022.

## **Incident Summary**

During the evening hours of Monday, January 10, 2022, off-duty Police Officer A and Witness A were approached on the street and confronted by two men, Subjects 1 and 2, who were armed with handguns. Subjects 1 and 2 pointed their guns at Officer A and Witness A, taking their property. During the commission of the robbery, an exchange of gunfire occurred between Officer A and Subjects 1 and 2. Officer A was struck by gunfire and collapsed to the ground. Subjects 1 and 2 fled in an awaiting pick-up truck. The truck was driven by Subject 3, and Subject 4 was in the front-passenger seat.

At approximately 2116 hours, LASD deputies responded to the shooting. Upon their arrival, the deputies located Officer A and observed that he/she had been shot. The deputies transported Officer A to a hospital, where he/she was subsequently pronounced dead.

The Los Angeles Police Department Operations Center (DOC) was notified of this incident by LASD. Per Department protocols, LAPD command staff members and FID investigators responded to the incident. However, since the incident occurred outside the City of Los Angeles, the LASD exercised its jurisdictional authority and investigated the entire incident without FID's involvement.

The United States Department of Justice, United States Attorney's Office (USAO), Central District of California, is handling the federal prosecution of the four Subjects. With the ongoing federal criminal indictments against the Subjects, the USAO has not provided any information related to the case for the purpose of the LAPD's administrative investigation.

According to the federal criminal complaint, the LASD investigation led to the arrest of Subjects 1, 2, 3, and 4. The evidence derived from LASD's investigation has to date not been shared with FID investigators, due to the ongoing federal case.

## **Body-Worn Video (BWV) and Digital In-Car Video (DICV) Policy Compliance**

Not applicable.

## **Los Angeles Board of Police Commissioners' (BOPC) Findings**

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

## **A. Tactics**

The BOPC found Officers A's tactics to warrant administrative approval.

## **B. Drawing and Exhibiting**

The BOPC found Officers A'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 scenario, 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.

#### **Detention**

- Not applicable.

#### **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/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.

Based on the available information, no issues were identified regarding Tactical De-Escalation.



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

### **Off-Duty Actions**

Officer A was off-duty shopping for a home in a residential area with Witness A when they were approached by two men who robbed them at gunpoint.

The BOPC noted that the Chair of the UOFRB assessed Officer A's actions during this incident. The Chair noted that Officer A was off duty in an unincorporated portion of Los Angeles County with Witness A when Subjects 1 and 2 pointed guns at them. While the available information is limited, the Chair opined that Subject 1 and/or Subject 2 were near Officer A and Witness A while taking their property and may have searched Officer A's person. Had this occurred, it risked Subjects 1 and 2 discovering Officer A's firearm. Although officers are generally encouraged to be "a good witness" and avoid acting, based on the available information, the Chair opined that it was unavoidable and absolutely necessary for Officer A to take action.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officer A were not a deviation from approved tactical training.

- **Tactical Debrief**

As Officer A was the only Department employee known to be involved in this incident, there will not be a Tactical Debrief.

## **B. Drawing and Exhibiting**

### **Officer A**

Officer A and Witness A were approached on the street and confronted by Subjects 1 and 2, who pointed their guns at Officer A and Witness A, taking their property. During the commission of the robbery, Officer A drew and exhibited his/her firearm.

The BOPC noted that the Chair of the UOFRB evaluated Officer A's drawing and exhibiting of his/her firearm. The Chair noted that Officer A was off-duty, shopping for a home with Witness A when they were robbed at gunpoint on a residential street by two men. While the available information is limited, the Chair opined that it would be reasonable for an officer who is being robbed at gunpoint to draw and exhibit his/her firearm, especially when another victim is being robbed as well.

Based on the available information, the BOPC determined that an officer with similar training and experience as Officer A would have reasonably believed that there was a substantial risk that the situation may escalate to the point where lethal force may be justified. Therefore, the BOPC found Officer A's drawing and exhibiting of a firearm to be In Policy.

## **C. Lethal Use of Force**

### **Officer A**

Officer A and Witness A were approached on the street and confronted by Subjects 1 and 2. Subjects 1 and 2 pointed their guns at Officer A and Witness A, taking their property. During the commission of the robbery, an exchange of gunfire occurred between Officer A, and Subjects 1 and 2.

The BOPC noted that the Chair of the UOFRB assessed Officer A's lethal use of force. The Chair noted that during the commission of the robbery, Subjects 1 and 2 pointed their guns at Officer A and his/her friend. The Chair opined that Subjects 1 and 2's use of firearms during the commission of a robbery was an indication that they had the present ability, opportunity, and apparent intent to cause death or serious bodily injury to Officer A and/or Witness A. And while the available information is limited, the Chair opined that Officer A would have believed that Subjects 1 and/or 2 may shoot him/her and/or Witness A regardless of their cooperation. As such, the Chair also opined that Officer A would have believed that Subjects 1 and 2 presented an imminent deadly threat to him/her and Witness A, and that the lethal use of force was objectively reasonable.

In terms of necessity, based on the available information, the Chair opined that it was not reasonably safe or feasible for Officer A to use other available resources and techniques. Officers rarely have all or even part of their normal equipment with them when they are off duty (e.g., radio, handcuffs, etc.). Additionally, while the Chair did not know the number of rounds Officer A discharged during this incident, the fact that he/she was struck by gunfire and collapsed while the subjects managed to flee the scene, indicated that the force used was proportional to the threat posed by Subjects 1 and 2.

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 to be In Policy.