

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS
OFFICER-INVOLVED SHOOTING – F045-23**

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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Hollywood	9/9/23		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer B	6 years, 9 months
Officer C	4 years, 8 months

Reason for Police Contact

Officers were flagged down by security guards outside a nightclub. The guards reported a physical altercation among patrons and directed the officers’ attention to a man who was possibly armed with a firearm, seated in the driver’s seat of a vehicle. The suspect drove his vehicle in reverse and stopped in the middle of the street facing the west curb. As the officers drove toward the suspect’s vehicle, the suspect while still seated, pointed a handgun outside of the driver’s side window and fired rounds toward people on the west sidewalk, resulting in an Officer-Involved Shooting (OIS).

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Male, 25 years of age.			
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Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding this categorical use of force (CUOF) incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police (Chief); 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 August 20, 2024.

Incident Summary

On the night of September 9, 2023, Officer A was on duty in full uniform when he/she received information from a security guard about a male who was possibly armed with a gun. Over an hour later, Officer A drove to the location and spoke briefly with the security guard from inside his/her vehicle; however, he/she was distracted because of an altercation involving a group of males that was occurring on the sidewalk.

Simultaneously, Officers B (driver) and C (passenger) had arrived in the area and were stopped at a red traffic signal at the intersection. As Officers B and C waited at the traffic signal, an unidentified citizen on the sidewalk directed their attention to the physical altercation. The officers turned south and stopped their police vehicle at the crosswalk. Meanwhile, Officer A, who was heading north toward them stopped his/her police vehicle and aligned it parallel to their position. Officer B heard Officer A mention wanting to do a traffic stop of a vehicle, however, Officer B believed the altercation on the sidewalk was a higher priority, so he/she continued driving south.

At the same time a male from the group involved in the altercation, later identified as the Subject, stepped onto the street, walked toward his vehicle and entered the driver's side.

Shortly after the brief conversation, Officer A negotiated a U-Turn and repositioned him/herself behind Officers B and C's vehicle. Simultaneously, the Subject now driving, reversed and momentarily stopped, positioning himself in front of a black Sport Utility Vehicle (SUV).

Witness A approached Officer B and C's vehicle and pointed toward the Subject's vehicle and told the officers the Subject had a gun. As Officers B and C continued south, Officer B activated his/her amber lights and siren as he/she maneuvered through traffic. Simultaneously, Witness A directed them toward the Subject's vehicle, while Officer A trailed directly behind them. Officer B observed the Subject's vehicle and noticed "*erratic*" driving behavior. Officer B stopped his/her police vehicle approximately 48 feet away from the Subject's vehicle.

The Subject maneuvered his vehicle in reverse and positioned it perpendicular to the street. At the same time, two males who were involved in the altercation with the Subject, walked north along the west sidewalk, aligning themselves with the Subject's vehicle. The Subject, while still seated, pointed a handgun outside the driver's side window and fired approximately four to five rounds toward the two males. At this point, an OIS ensued.

Officer B's account of the OIS

Simultaneously, Officer B observed the Subject's vehicle come to a complete stop, followed by gunfire and a visible muzzle flash directed at him/her coming from the driver's side. Officer B felt "*trapped*" inside his/her police vehicle and brought his/her

vehicle to a stop. Subsequently, he/she unholstered his/her pistol and pointed it toward the Subject, who remained seated in the driver's seat.

Officer B indicated the Subject's vehicle had tinted windows but the streetlights allowed him/her to see through the other side of the vehicle. Officer B believe it was only the Subject inside the vehicle.

Round No. 1

While Officer B remained seated, he/she fired a round through the windshield of his/her police vehicle at the Subject, who remained inside his vehicle.

Round No. 2

After firing his/her first round, Officer B stepped out of the vehicle, took cover behind the door panel of his/her police vehicle and obtained a two-hand grip on his/her pistol. He/she aimed his/her pistol at the Subject. Officer B continued to see multiple muzzle flashes and the Subject shooting at him/her.

Round 3

After firing his/her second round, Officer B assessed and continued to see the Subject shooting at them. In response, Officer B fired his/her third round.

Round 4

After firing his/her third round, Officer B continued to see the Subject shooting in his/her direction. In response, Officer B fired his/her fourth round.

Round 5

After firing his/her fourth round Officer B continued to see the Subject shooting in his/her direction. In response, Officer B fired his/her fifth round.

Round 6

After firing his/her fifth round, Officer B continued to see the Subject shooting in his/her direction. In response, Officer B fired his/her sixth round.

Round 7

After firing his/her sixth round, Officer B continued to see the Subject shooting in his/her direction. In response, Officer B fired his/her seventh round.

Round 8

After firing his/her seventh round, Officer B continued to see the Subject shooting in his/her direction. In response, Officer B fired his/her eighth round.

Immediately after firing his/her eighth and final round, Officer B observed the Subject's vehicle reverse, conduct a U-Turn and drive south on the street. Officer B stopped firing when he/she realized the Subject no longer posed an immediate threat and was fleeing.

When Officer B was asked about his/her background at the moment he/she discharged his/her pistol, he/she stated, *"There's no other nightclubs that are going on. There's no vehicles that were driving. So I had a clear view so I knew the background was clear so I was - - you know, I didn't feel that I was going to hit anybody by me firing in that direction."*

Officer C's account of the OIS

Officer C observed the Subject's vehicle, aligning itself *"horizontal"* to them. Subsequently, he/she heard a *"loud bang"* followed by visible muzzle flashes and what he/she perceived to be a gun pointed at him/her and Officer B. While seated in his/her vehicle, Officer C unholstered his/her pistol because he/she believed he/she was being shot at by the Subject.

Rounds No. 1 and 2

Officer C stepped out of the vehicle, obtained a one-hand grip of his/her pistol and fired two rounds toward the *"muzzle flash."*

Round 3

After firing his/her first two rounds, Officer C observed the Subject shooting at them. When asked why he/she fired his/her third round, Officer C stated, *"Oh, because he still had the gun pointed at us."*

Round 4

After firing his/her third round, Officer C continued to see the Subject shooting at them. At the same time, the Subject's vehicle started moving, attempting to make a *"10-point turn"* as the gun was still pointed at them. When asked when he/she fired his/her fourth round, Officer C stated, *"As he was still shooting at us and still trying to turn, essentially. The only thing that changed was him trying to get away."*

Immediately after firing his/her fourth and final round, Officer C observed the Subject's vehicle complete its turn and face south on the street. Officer C stopped firing when he/she realized the Subject was no longer shooting at them.

When Officer C was asked about his/her background at the moment he/she discharged his/her pistol, he/she stated, *“On my background there was no peds and next to us, I believe there was a couple peds.”* Officer C clarified and stated the pedestrians were *“on the sidewalk”* and not next to them.

Immediately following the OIS, the Subject’s vehicle reversed in a counter clockwise direction and accelerated south on the street at a high rate of speed. Officer A, who was directly behind Officer B and C’s vehicle, broadcast, “Shots fired, officer needs help.”

Vehicle Pursuit

Officer B activated their forward-facing red light and siren and proceeded south on the street in the direction of the fleeing vehicle. Officer A activated his/her forward-facing red light and siren and pursued the Subject’s vehicle behind Officers B and C’s vehicle.

Officers B and C pursued the Subject’s vehicle, maintaining visual as it travelled. After several blocks, Officer B lost sight of the Subject’s vehicle as it continued east on the street. Officer C broadcast that they had lost sight of the vehicle.

Post OIS and Pursuit Termination

Multiple units responded to the officer needs help broadcast. One of the units observed a vehicle matching the Subject’s vehicle description and initiated a vehicle stop. Officers B and C also responded at this location; however, it was later determined to be the wrong vehicle.

The Subject was not located on the night of the incident. He was arrested at a later date.

Officers B and C advised Sergeant A that they had been involved in an OIS. The officers were separated and directed to provide a Public Safety Statement.

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
Officer C	No	Yes	No	No	No

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 B and C's tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers B and C'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 Subject 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 Subjected 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 subject 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, Subjects, persons in custody, subjects 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 fired 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 fired 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 firing 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 subject.

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 subject 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 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.

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)*

Planning, Assessment, Time, Redeployment and/or Containment, Other Resources, and Lines of Communications – Officers B and C previously worked as regular partners and often discussed tactical concepts, including contact and cover roles. At the time of the incident, they were flagged down by nightclub employees, limiting their ability to plan for the specific circumstances of this incident. As they were flagged down, the officers assessed the information being provided to them and the active scene, including the pedestrian and vehicle activity. As the OIS occurred, the officers assessed the Subject's actions and their background while firing their rounds. The officers deployed from their vehicle, using their ballistic door panels for cover as the OIS occurred, providing them with as much time as possible to react to the Subject's actions. Once the Subject fled in his vehicle and the vehicle pursuit was initiated, Officer A broadcast a request for additional resources. The

officers were unable to communicate with the Subject prior to the OIS as his actions necessitated their immediate response. Ultimately, the manner in which the officers came upon the incident and the Subject's actions shortly after their arrival, limited the officers' ability to employ de-escalation techniques.

During the review of the incident, the following Debriefing Topic was noted:

Debriefing Point No. 1 – Code Six (status and location)

Officers B and C did not place themselves Code Six as they were flagged down regarding an altercation occurring nearby.

The UOFRB assessed Officers B and C's adherence to the Code Six policy. The UOFRB noted when the officers were flagged down for an altercation, the altercation had ceased. The UOFRB discussed the need for the officers to assess the information they were receiving as well as the situation they were approaching to determine whether or not any field investigation was necessary. The UOFRB noted they received information an altercation had occurred but that did not necessarily mean it was physical in nature and did not presumptively mean a crime had occurred.

The UOFRB noted the officers were being told of an altercation and were assessing the scene. The UOFRB opined the environment they were approaching was full of activity with numerous pedestrians and vehicles and it was reasonable for the officers to need additional time to effectively assess the scene. The officers were in the process of attempting to verify if and where any crime had occurred when they were approached by Witness A, who alleged a man inside a vehicle was armed with a gun. The UOFRB opined at that point, with the limited information they had, the officers were continuing to assess the scene and locate the person they were being told about and it was reasonable to attempt to do so prior to placing themselves Code Six. Both Officers B and C had yet to verify the necessity for any field investigation.

Upon locating the Subject's vehicle, the UOFRB acknowledged Officer C had picked up the radio mic with the apparent intent to broadcast his/her Code Six status. Before Officer C was able to broadcast his/her location, the officers were confronted by the Subject's gunfire. Although it would have been ideal if the officers had gone Code Six prior to engaging the Subject, the UOFRB opined based upon the totality of the circumstances, it was reasonable the officers did not immediately place themselves Code Six as they were flagged down and assessing the scene. At this point in the incident, the UOFRB opined not going Code Six was not a substantial deviation from Department policy.

The UOFRB opined later once the Subject began firing his weapon, a field investigation and police action was necessary and Department policy required the officers to place themselves Code Six. However, it simply was not a viable option in that moment as there was an immediate necessity for the officers to defend themselves from an imminent deadly threat. Therefore, the UOFRB opined the officers not placing

themselves Code Six was a substantial deviation, with justification, from Department policy.

Based on the totality of the circumstances, the Chief concurred with the UOFRB, the tactics employed by Officers B and C were a substantial deviation, with justification, from Department policy. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Additional Tactical Debrief Topics

Tactical Communications – After responding to the location in response to text messages he/she received of a possible man with a gun, Officer A located Officers B and C. Officer A pulled his/her vehicle alongside theirs and told them they may want to conduct a traffic stop on a vehicle, which was the vehicle description provided to him/her of the possible man with a gun. Before Officer A could provide Officers B and C with any additional information, they drove away from him/her to check on the possible altercation.

Upon learning the Subject was possibly armed with a firearm, Officers A, B and C did not request additional resources. In order to ensure officer safety, it is paramount that officers communicate with each other and request necessary resources to allow for all necessary information to be disseminated. To enhance future performance, the Chief directed Officer A to attend the Tactical Debrief and this be a topic of discussion.

Shooting Through a Window – The investigation revealed Officer B discharged his/her service pistol through the windshield of his/her police vehicle while maintaining a single-handed shooting grip. Officers should be reminded that given the physical characteristics of a vehicle windshield, shooting through it can significantly diminish accuracy, cause deflection of the bullet and may result in fragmentation or other unintended outcomes. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

One-Handed Shooting Platform – Officer B utilized a single-handed shooting grip when he/she discharged the first round from his/her service pistol. Officer C maintained a single-handed shooting grip when he/she discharged all four rounds from his/her service pistol. When possible, officers should use a two-handed shooting grip. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Opening Door with Service Pistol in Same Hand – Prior to exiting the police vehicle, Officer C unholstered his/her service pistol and proceeded to open the vehicle door with the same hand. By holding his/her service pistol and manipulating the vehicle door with the same hand, Officer C greatly increased the risk of a negligent discharge. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Crime Scene Preservation – The OIS scene was left unsecured for approximately 19 minutes before the arrival of additional officers. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Command and Control

While responding to the vehicle following, Sergeant A broadcast he/she was the Incident Commander (IC). Sergeant A requested three additional officers get in front of him/her in the following of the possible suspect vehicle and authorized the officers to conduct a high-risk felony stop. At the termination of the following, Officers B and C then approached Sergeant A and advised him/her they had been involved in an OIS. Sergeants A and B began separating and monitoring Officers B and C. Sergeant A broadcast a request for units to secure the shooting scene. Sergeant C advised he/she would respond.

As Sergeant A was managing the scene at the termination of the following and directing resources to the crime scene, Officer B was briefly left unmonitored. As Sergeant B was monitoring the scene and directing resources, Officer C was briefly left unmonitored. Sergeant B requested additional supervisors respond to the termination of the following to assist in the separating and monitoring of the involved officers.

The UOFRB determined, and the Chief concurred, the overall actions of the Sergeants were consistent with Department training and the Chief's expectations of supervisors during a critical incident.

The BOPC determined that the overall actions of Sergeants A, B, C and D were consistent with Department training.

Tactical Debrief

In conducting an objective assessment of this case, the BOPC determined the actions of Officers B and C were a substantial deviation, with justification, from Department approved tactical training.

Each tactical incident merits a comprehensive debriefing. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

The BOPC found Officers B and C's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

Officer B

Upon observing the Subject's vehicle come to a stop, followed by gunfire and visible muzzle flash coming from the driver side, which he/she perceived to be directed at him/her, Officer B felt "trapped" inside his/her police vehicle and brought his/her vehicle to a stop. While seated in the police vehicle, Officer B unholstered his/her service pistol. According to Officer B, he/she unholstered his/her service pistol because he/she was in fear he/she or his/her partner were going to be killed by the Subject.

Officer C

Officer C observed the Subject's vehicle reverse, aligning itself "*horizontal*" to them. Subsequently, Officer C heard a "*loud bang*" followed by visible muzzle flashes and what he/she perceived to be a gun pointed at him/her and Officer B. While seated in the police vehicle, Officer C unholstered his/her service pistol. According to Officer C, he/she believed he/she was being shot at by the Subject.

The UOFRB assessed Officers B and C's drawing and exhibiting of their service pistols. Based on the Subject's actions, the UOFRB felt it was reasonable for Officer B and C to believe the situation had escalated to where deadly force was necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B and C would reasonably believe the situation had escalated to where deadly force may be justified.

Therefore, the BOPC found Officers B and C's drawing/exhibiting of a firearm to be In Policy.

Lethal Use of Force

Officer B – 9mm semi-automatic pistol with a red dot optic. Eight rounds discharged in a southerly direction from an approximate distance of 48 feet.

Round One

According to Officer B, after being informed by Witness A that the individual in the vehicle was possibly armed, he/she observed the vehicle driving erratically. Officer B observed the vehicle come to a complete stop, followed by gunfire and a visible muzzle flash directed at him/her coming from the driver's side. Officer B felt "trapped" inside his/her police vehicle, brought the vehicle to a stop and unholstered his/her service pistol. While Officer B remained seated, he/she discharged a round through the windshield of his/her vehicle at the Subject. According to Officer B, he/she believed the Subject was going to "kill" him/her and did not want to afford the Subject too much time to where he would "get a good shot" while Officer B was

seated in the police car.

Rounds Two Through Eight

After discharging his/her first round, Officer B stepped out of the vehicle, took cover behind the door panel of his/her police vehicle and obtained a two-handed grip on his/her pistol. Officer B aimed his/her pistol at the Subject and “*focused*” his/her sights with his/her red dot optic. During this time, Officer B continued to see multiple muzzle flashes, what he/she perceived to be a handgun coming out the driver side window and the Subject shooting at him/her. In response, Officer B discharged seven rounds. Officer B stated he/she took time to assess between each of the rounds he/she discharged and observed the Subject was “*still engaging the fight*” and “*firing*” at him/her and his/her partner.”

Officer C – 9mm semi-automatic pistol with a red dot optic. Four rounds discharged in a southerly direction from an approximate distance of 48 feet.

Rounds One Through Three

According to Officer C, after being informed by Witness A that the Subject was in the vehicle and was possibly armed, he/she observed the vehicle aligning itself “*horizontal*” to them. Subsequently, Officer C heard a “*loud bang*,” followed by visible muzzle flashes and what he/she perceived to be a gun pointed at him/her and Officer B. Officer C then unholstered his/her service pistol, exited the police vehicle and obtained a single-handed shooting grip of his/her pistol. Officer C discharged three rounds from his/her service pistol toward the “*muzzle flash*.” According to Officer C, he/she believed the Subject was actively shooting at him/her and his/her partner.

Round Four

According to Officer C, he/she continued to see the Subject shooting at him/her and his/her partner. At the same time, the Subject’s vehicle started moving, attempting to make a “*10-point turn*” as the gun was still pointed at the officers. In response, Officer C fired one round from his/her service pistol. According to Officer C, while the car was moving a “*little bit*” and attempting to flee, the Subject was still able to continue firing at him/her and his/her partner.

The UOFRB assessed Officers B and C’s use of lethal force. The UOFRB noted as soon as the officers located the Subject’s vehicle, they perceived they were immediately being fired upon. The officers reacted to a perceived threat to themselves caused by the Subject’s unprovoked actions, which caused Officer B to discharge eight rounds and Officer C to discharge four rounds. Officers B and C both indicated they observed the Subject point a firearm out his driver side door and fire at them. The officers were able to observe muzzle flash and believed there was an active threat to their safety. The UOFRB opined that although the investigation

discovered the Subject actually fired at two victims on the sidewalk and not at the officers, the officers' perception they were being fired at was reasonable given the totality of the circumstances. The UOFRB noted the officers would have been justified to use lethal force regardless of whether the Subject was firing at them or community members. The UOFRB opined the officers had the right to defend both themselves and the public. Based upon the Subject's actions, the UOFRB opined it was reasonable for Officers B and C to believe the Subject posed an imminent deadly threat.

The UOFRB discussed the number of rounds discharged by the officers. Based on the available evidence, the UOFRB opined both officers assessed an imminent deadly threat each time they discharged their service pistols and the force used was proportional to the reasonably perceived level of resistance.

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

Medical Treatment/Rendering Aid

- There were no reported injuries to the Subject, victims, witnesses or officers during the incident.

Requirement to Intercede

- Based on the review of this incident, the BOPC determined the force used was not clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances and would not have required an officer to intercede.