

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

OFFICER-INVOLVED SHOOTING – 005-23

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No()</u>
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Van Nuys	02/07/23		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	8 years, 5 months
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Reason for Police Contact

On February 7, 2023, uniformed officers observed the Subject riding a bicycle. The officers had prior knowledge that the Subject was wanted. When the officers attempted contact, the Subject abandoned his bicycle and fled on foot. As the passenger officer prepared to exit the police vehicle to foot-pursue the Subject, a Tactical Unintentional Discharge (TUD) occurred. During the foot pursuit, the Subject removed a pistol from his waistband, turned his body, and pointed the pistol at one of the officers, resulting in an officer-involved shooting (OIS).

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
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Male: 49 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this categorical use of force (CUOF) incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (FID) investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police (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 January 9, 2023.

Incident Summary

Officers A and B observed the Subject, whom they knew to be wanted for several violent crimes, riding a bicycle west on the sidewalk.

Upon initial observation, Officers A and B discussed a plan to get closer to the Subject and obtain a better view to verify his identity. The officers then followed the Subject as he rode westbound.

At 1538:24 hours, Officer A broadcast a request for "backup for a 187 suspect."

Officer C and Sergeant A responded to the backup request. All other personnel arrived after the subsequent OIS had occurred.

After his/her partner made the backup request, Officer B immediately activated his/her body-worn video (BWV) camera. Within a few seconds of the backup request, Officer A stated to his/her partner, "Alright, go ahead, jam him up," as he/she simultaneously pointed at the Subject.

Officer A explained the decision to make contact with the Subject prior to the arrival of additional resources was deliberate. Officer A explained that the Subject, "was in a known [...] gang area, which means that there would be many friendly people to him. In order to prevent his escape, not knowing his exact location of where he resides, and being in an area where there's multiple businesses and heavy traffic, we did not want him to be able to escape and take someone hostage at a business or carjack somebody, try to get away from us. And basically we were trying to make sure that no one gets hurt in the process of apprehending him."

In an effort to detain the Subject, Officer B activated the vehicle's forward-facing lights and siren. Officer B maneuvered his/her police vehicle into the eastbound lanes of the road as he/she traveled west. He/she then yelled out to the Subject, "Hey Bro! Get off the bike! Get off the bike! Get off the bike! Face the wall!" The Subject did not comply with Officer B's commands; he simply yelled back, "why?" and continued to ride his bicycle west on the south sidewalk.

As this exchange between Officer B and the Subject transpired, Officer A opened his/her door while the vehicle was still in motion, and unholstered his/her pistol.

Officer A stated that he/she unholstered his/her pistol because the Subject was, "wearing the baggy clothing, having knowledge that he may possibly be armed, he's wanted for a murder, murder suspects use firearms to commit their crimes, I drew my firearm out reasonably believing that the situation may escalate to the use of deadly force."

Officers A and B yelled out to the Subject simultaneously, "Face the wall!" The Subject did not comply with their commands and continued to ride west.

At this point, Officer B indicated to his/her partner that the Subject was possibly armed. Officer A holstered his/her pistol and then broadcast that the Subject was possibly armed.

At this point the Subject turned around and rode east and the officers continued to follow him. As they followed the Subject east, Officer A broadcast an updated description and direction of travel.

As Officer A was broadcasting, his/her vehicle door was open and the vehicle was in motion. According to Officer A, he/she wanted to be able to immediately exit the vehicle in the event he/she needed to foot-pursue the Subject. Officer A subsequently closed his/her vehicle door and simultaneously unholstered his/her pistol.

As the officers continued to follow the Subject, Officer B stated to Officer A, "Are you cool if I pin him in. Ready?" Officer B closed the distance to the Subject and stopped their vehicle in front of the Subject. As the vehicle came to a stop, Officer A's BWV appeared to show the Subject's body make contact with the passenger side view mirror.

Note: Based on the officers' BWV, Officer A never responded to Officer B's statement regarding his/her decision to close the distance with their vehicle.

Although Officer B believed that the Subject was armed with a pistol, he/she decided to close the distance and block the Subject's path of travel with his/her vehicle. During Officer B's interview, he/she indicated that the apprehension of the Subject was necessary because of his violent history, what he was wanted for, law enforcement's inability to locate him in the past, and to prevent his escape.

As the vehicle came to a stop, Officer A transitioned his/her pistol from his/her right hand to his/her left hand. Officer A then used his/her right hand to open his/her door. Officer A had a left-handed grip on his/her pistol which was pointed toward the vehicle's engine block. Officer A unintentionally fired one round into the dashboard of the police vehicle.

The Subject then dismounted his bicycle and began to run southeast through a vacant lot. Officer A remained unholstered and transitioned his/her pistol to his/her right hand. Officer A then exited the vehicle and foot-pursued the Subject. Officer A gave the Subject commands and stated, "Hey! Put your hands up!"

Officer A explained the decision to initiate a foot pursuit and to do so in apprehension mode of the Subject. Officer A stated, "at that moment containment wasn't an option because of the amount of traffic there was out on [the adjacent roadway]. And I was immediately in apprehension mode because of the [Subject] reaching into his waistband and taking out a firearm, and I wanted to prevent him from being able to harm a community member or carjack somebody, and even turning around the parking lot and me losing sight of the [Subject] where he could be waiting on the other side with the firearm in his hand and that would be an imminent threat of death or SBI to myself. So

in order to be able to know exactly where he is and prevent his escape, I went into apprehension mode at that point.”

Officer B also exited the vehicle, and gave the Subject commands by stating, “Get off the bike! Get on the ground!” As Officer B approached the west driveway of the vacant lot, he/she advised his/her partner, “I’m gonna secure the car!”

Officer B then walked back to the police vehicle, away from the foot pursuit. When the OIS began, Officer B was near the passenger door of the vehicle. Officer B heard the shots and ran towards Officer A’s location.

In explaining his/her decision to return to his/her vehicle Officer B stated, “I had seen at least, I think, I want to say three officers on foot [nearby] and then I was -- I know I was with my partner at one point. And then I don't know why, I just -- I'm like hey, I left the car running and just -- I guess just the area. I'm just kind of like I don't want to leave the keys in the ignition and somebody takes off with it.”

As Officer A foot-pursued the Subject, he/she shouted commands, stating, “Hey! Put the gun down! Put the gun down! Put the gun down!” The Subject did not comply with Officer A’s commands. Instead, the Subject exited the vacant lot, turned toward Officer A, and raised his right arm as he pointed his pistol at Officer A.

Moments before the OIS, Sergeant A began to run toward Officer A. When asked if he/she observed the Subject point his pistol at officers, Sergeant A stated, “all I recall is him [the Subject] turning with the gun. I don't recall the shots after that distracted me and I wasn't really paying attention to that specific aspect.”

At 15:39:45 hours, the OIS occurred. Officer A utilized a two-handed grip and fired a total of eight rounds at the Subject. These rounds were fired in a southeasterly direction from approximately 26 feet.

All eight rounds were fired in three seconds.

In regard to his/her cover and concealment, Officer A explained, “I couldn’t use anything for cover and concealment during the OIS since that parking lot that we were inside was open and I didn’t observe any -- after assessing, I didn't really observe any concealment.”

Officer A addressed his/her background during the OIS, stating, “I was mainly focused on the [Subject’s] actions and the firearm, but I do know that there were -- there was just regular traffic behind the [Subject...] as it's a busy -- busy area or busy street. That's just vehicles passing by, I guess.”

During the investigation, FID investigators analyzed the scene, physical evidence, and video footage to assess Officer A’s background at the point he/she fired his/her pistol. The investigation determined that when Officer A fired at the Subject, his/her background was multiple occupied vehicles travelling on a busy street.

Two impacts were located in the officer's background. One impact was located on a pickup truck which was traveling east at the time of the OIS. Another impact was discovered on an ambulance which was traveling west at the time of the OIS. None of the occupants of these vehicles were injured.

Immediately after the OIS, Officer B began to run southeast through the vacant lot towards his/her partner. While running through the lot Officer B broadcast, "We got shots fired! Shots fired!" Additionally, at 1539:56 hours, Sergeant A broadcast, "Show me incident commander. Shots have been fired. Let me get the first unit with a shield."

After the OIS, the Subject ran east on the sidewalk and fell to the ground approximately 50 feet from where he had exited the vacant lot.

As more resources and additional personnel arrived at scene, Sergeant A delegated assignments to various officers to form a contact team. The Subject was ultimately taken into custody, his injuries identified, and first aid administered. His pistol was recovered lying next to him. He was later transported to a hospital via a rescue ambulance (RA) where he was treated for non-life threatening gunshot wounds.

During transport, it was discovered that the Subject had not been properly searched after having been taken into custody. A holster and additional loaded magazine were recovered from his person at the hospital.

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

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

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 and B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Unintentional Discharge

The BOPC found Officer A's unintentional discharge to be negligent.

D. Lethal Use of Force

The BOPC found Officer A's lethal use of force for rounds one and two to be In Policy, and the BOPC found Officer A's lethal use of force for rounds three through eight to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

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

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

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

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

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a 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 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 and Assessment – Officers A and B had worked as partners for approximately one year, during which time they discussed tactical concepts, including contact and cover roles and responsibilities, foot-pursuit concepts, and officer safety. The BOPC considered that the UOFRB noted that Officers A and B lacked tactical planning when making the decision to stop the Subject.

Sergeant A arrived and assumed responsibility for tactical planning. He/she formed a team that included a designated cover officer (DCO), less-lethal force officer, and

arrest team. Based upon Sergeant A's assessment of the situation, he/she created a plan to approach the Subject and take him into custody.

Time and Redeployment/ Containment – Officer B utilized the officers' police vehicle to stop the Subject. This action significantly reduced the amount of time they had available to deescalate the situation. After the Subject dismounted his bicycle and began to run through the vacant parking lot, Officers A and B followed. At the time of the OIS, there was no cover available to Officer A. After the OIS, Officer A utilized a parked vehicle as cover while giving the Subject commands.

Other Resources – Upon verifying the Subject's identity, Officer A broadcast a backup request for additional units. After the OIS, Sergeant A broadcast that shots had been fired and requested a unit with a shield.

Lines of Communication – After verifying the Subject's identity, Officer B advised his/her partner to broadcast a backup request. Officer B then began giving commands to the Subject to stop, while attempting to initiate a pedestrian stop on the Subject. When the Subject refused to comply, Officer B advised Officer A to broadcast that the Subject was possibly armed. Prior to using their police vehicle to stop the Subject, Officer B advised his/her partner that he/she was going to make another attempt to stop the Subject.

After the OIS, Sergeant A effectively communicated with all officers at scene to gain situational awareness and create a tactical plan and arrest team to take the Subject into custody.

During the review of the incident, the following debriefing points were noted:

Debriefing Point No. 1 Foot-Pursuit Concepts

Upon exiting their police vehicle, Officers A and B began to foot-pursue the Subject. Officers A and B explained that they believed the Subject to be armed based on his prior criminal history. Additionally, when Officer A began foot-pursuing the Subject, he/she observed the Subject reach into his waistband and retrieve a pistol. Both Officers A and B foot-pursued the Subject in apprehension mode.

As Officer B approached the west driveway of the vacant lot, he/she advised his/her partner, "I'm gonna secure the car!" Officer B then walked back to the police vehicle, away from the foot pursuit. When the OIS began, Officer B was near the passenger door of the police vehicle and was unable to see the Subject's actions. Officer B explained that he/she decided to return to his/her vehicle because he/she saw other officers nearby and did not want someone to drive away with the police vehicle since he/she had left the keys in the ignition.

While in foot pursuit of the Subject, Officer A followed directly behind the Subject through the vacant parking lot, which did not afford him/her any cover or concealment. At the time of the OIS, Officer A was without cover or concealment.

After the Subject fell to the ground, Officer B joined Officers A and C. Officer B stood to the right of Officer C, without cover, while providing lethal cover to Officer C, who was giving commands to the Subject.

The BOPC noted that the UOFRB assessed Officers A and B's tactics during the foot pursuit. The UOFRB noted the Department's tactical training states that officers generally should not foot-pursue an armed suspect in apprehension mode. The UOFRB noted when the officers first observed the Subject, they believed that he was armed due to his prior criminal history, refusal to stop, and furtive movements. Once the Subject got off his bicycle, Officer A observed the Subject reach into his waistband and retrieve a pistol. The UOFRB noted that Officer A continued to foot-pursue the Subject in apprehension mode and gave him commands to "drop the gun." Per Officer A, the reason he/she was in apprehension mode was due to wanting to prevent the escape of the Subject, who was a wanted felon, and to protect the community. Per Officer B, he/she was in apprehension mode because the Subject was a wanted felon. The UOFRB noted that this justification was insufficient, and the officers' overall actions reduced their ability to reasonably deescalate this situation and left them at a tactical disadvantage. The Subject was armed with a pistol and presented a significant risk to the officers.

The UOFRB also assessed Officers A and B's use of cover. Officer A followed closely and directly behind the Subject through a vacant lot, which left him/her without the benefit of cover during the foot pursuit and OIS. After the OIS, Officer B stood next to Officer C and was without cover. The UOFRB opined that by not utilizing cover, the officers substantially deviated from Department-approved tactical training and unnecessarily placed themselves in a dangerous position.

The UOFRB also assessed Officer B's decision to separate from his/her partner during the foot pursuit. The UOFRB noted that after the initiation of the foot pursuit, Officer B made a conscious decision to return to the vehicle in order to secure it. In doing so, Officer B left his/her partner, who was in foot pursuit of a suspect they believed to be armed. Per Officer B, he/she explained that he/she was able to see other officers near his/her partner and that was the reason he/she returned to their police vehicle. The UOFRB opined that it was unreasonable for Officer B to believe that the responding officers would have had the same situational awareness, tactical positioning, and ability to provide assistance to Officer A that Officer B would have, had he/she continued in the foot pursuit. While Officer B did inform his/her partner that he/she was returning to the vehicle, the UOFRB noted that this was not sufficient. The UOFRB opined that Officer B's primary focus should have been not separating from his/her partner. The UOFRB opined that by leaving Officer A, Officer B was not in a position to help his/her partner tactically and therefore increased Officer A's tactical disadvantage.

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

Debriefing Point No. 2 High Risk Stop Tactics

Officer B stated to his/her partner, "Are you cool if I pin him in. Ready?" Officer B then closed the distance to the Subject and stopped their vehicle in front of the Subject.

Although Officer B believed the Subject to be armed with a pistol, he/she decided to close the distance and block the Subject's path of travel with his/her vehicle. According to Officer B, the apprehension of the Subject was necessary due to his violent history, the crimes he was wanted for, and law enforcement's inability to locate him in the past.

The BOPC noted that the UOFRB assessed Officers A and B's decision to apprehend the Subject and the tactics employed to do so. The UOFRB noted that after requesting backup, Officers A and B decided to stop the Subject, instead of waiting for sufficient resources. The UOFRB noted this was apparent based on the actions and commands given to the Subject by Officers A and B. After the Subject refused to comply with the officers' commands, they continued to follow the Subject. Officer B then made the decision to "pin" the Subject in with their police vehicle. According to Officer B, he/she did this because he/she believed that the apprehension of the Subject was necessary. The UOFRB opined that Officer B placed his/her partner in a significant tactical disadvantage by using their vehicle in this way and placed them both in close proximity to a suspect they believed to be armed. The UOFRB emphasized that the tactics employed by Officer B regarding the use of their police vehicle to "pin" the Subject in was inherently dangerous and contrary to Department training regarding high-risk stops. At no point during their attempts to stop the Subject did either officer communicate to the other that they should redeploy or wait for resources.

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

Debriefing Point No. 3 Searches of Arrestees

After handcuffing the Subject, Officer B failed to complete a search of his/her person. While the Subject was transported by RA to the hospital, Officer D observed a holster in the Subject's waistband. Officer D then opened the holster and visually verified that it was empty. While at the hospital, hospital staff recovered the waistband holster and a magazine loaded with nine live rounds of ammunition in the Subject's front left pant pocket.

The BOPC noted that the UOFRB assessed Officer B's adherence to the searching policy. The UOFRB noted that after Officer B applied the handcuffs, the Subject's waistband was not searched. The Subject was then placed into the recovery position and officers began assessing his injuries; however, he had still not been searched by any officer. The UOFRB noted after the RA arrived at scene, the Subject was placed on a gurney and remained unsearched.

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

Debriefing Point No. 4 Basic Firearm Safety Rules

As their police vehicle came to a stop, Officer A transitioned his/her pistol from his/her right hand to his/her left hand. Officer A then used his/her right hand to open his/her vehicle door. As he/she did so, and while his/her pistol was pointed at the dashboard of the police vehicle, Officer A placed his/her finger on the trigger, causing the tactical unintentional discharge (TUD).

The BOPC noted that the UOFRB assessed Officer A's adherence to the Basic Firearm Safety Rules. The UOFRB noted that in deciding to move his/her pistol from his/her primary hand, while simultaneously opening the vehicle door, Officer A decreased his/her ability to adhere to the Basic Firearm Safety Rules. In this case, Officer A's violation of the Basic Firearm Safety Rules resulted in a TUD.

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

Additional Tactical Debriefing Points

Situational Awareness – While following the Subject, Officer A incorrectly broadcast the officers' location.

Running with a Firearm – While in foot pursuit, Officer A ran with his/her pistol in both hands.

Background – The FID investigation determined that when Officer A fired his/her pistol, his/her background consisted of a cinder block wall and multiple occupied vehicles. The FID investigation located two occupied vehicles that were struck by gunfire consistent with the direction Officer A was firing.

Drawing/ Holding Pistol While Seated in Police Vehicle – Officer A unholstered his/her pistol while still seated inside of his/her police vehicle. He/she removed his/her side-handle baton with one hand while holding his/her pistol with his/her other hand. He/she then continued to hold his/her vehicle door open with his/her right foot, while maintaining his/her pistol in his/her primary hand. Officer A then holstered his/her pistol and broadcast pertinent information. Officer A then unholstered his/her pistol again and continued to broadcast. He/she then transitioned his/her pistol to his/her left hand while attempting to re-open his/her vehicle door.

Personal Protective Equipment – Before taking the Subject into custody, Officer B did not don protective gloves.

Command and Control

- Sergeant A was the first supervisor to arrive at scene at 1539:35 hours. When Sergeant A exited his/her vehicle, he/she began to monitor the foot pursuit and subsequently observed the OIS occur. Immediately after the OIS, Sergeant A broadcast that he/she was the incident commander (IC) and requested a unit with shield. At 1540:12 hours, Sergeant A again declared him/herself IC and notified Communications Division (CD) that he/she was at scene. While assessing the scene, Sergeant A directed Officer A to holster his/her pistol and began to delegate assignments to various officers in order to take the Subject into custody, including a designated cover officer DCO, less-lethal force officer, and arrest team. Once the Subject was handcuffed, Sergeant A broadcast “a Code Four” (i.e., no further assistance necessary).

At 1545 hours, Detective A obtained Officer A’s public safety statement (PSS). At 1546:07 hours, Sergeant B arrived at scene and met with Sergeant A. Sergeant A directed Sergeant B to obtain a PSS from the involved officers. At 1600 hours, Sergeant B obtained Officer B’s PSS.

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

B. Drawing/Exhibiting

- **Officer A**

First Occurrence

Upon observing the Subject on the bicycle, Officers A and B decided to conduct a pedestrian stop on the Subject. Once Officer B began to give the Subject commands to “get off the bike,” Officer A opened his/her door while the vehicle was still in motion and unholstered his/her pistol. According to Officer A, due to his/her prior knowledge of the Subject, he/she believed that the Subject could be armed and the situation could escalate to where lethal force would be justified.

Second Occurrence

After the Subject did not comply with Officers A and B’s commands, Officer A holstered his/her pistol to broadcast pertinent information to responding units. Officer A then simultaneously closed his/her vehicle door and unholstered his/her pistol. According to Officer A, he/she unholstered his/her pistol due to the Subject’s proximity to them and the assumption that the Subject was armed at this time.

- **Officer B**

After the OIS, Officer B joined Officer A. Officer B stood next to Officer C, unholstered his/her pistol, and provided lethal cover as he/she gave commands to the Subject. According to Officer B, the Subject had a pistol in “close,” and therefore he/she believed that the situation could rise to where lethal force could be justified.

The BOPC noted that the UOFRB assessed Officers A and B’s drawing and exhibiting of their pistols. Regarding Officer A’s first occurrence, the UOFRB noted that his/her unholstering was reasonable based off Officer A’s belief that he/she and his/her partner were going to conduct a pedestrian stop on the Subject who was wanted for felony crimes. Regarding Officer A’s second occurrence, the UOFRB noted that Officer A and his/her partner were attempting to conduct a pedestrian stop and believed that the Subject was armed. Based on the Subject’s actions and the officers’ prior knowledge of his criminal history, the UOFRB felt it was reasonable for Officer A to believe the situation may escalate to lethal force.

Regarding Officer B’s unholstering of his/her pistol, the UOFRB noted that he/she unholstered after the OIS and had observed the Subject armed with a pistol. Officer B provided lethal cover for Officer C, who was giving commands to the Subject. Based upon the events that transpired, the UOFRB opined that it would be reasonable for Officer B to believe that the situation could escalate to lethal force.

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

Tactical Unintentional Discharge (TUD)

Officer A – Pistol. One round fired in a downward direction.

According to Officer A, as he/she was attempting to exit the police vehicle, he/she transitioned his/her pistol from his/her right hand to his/her left hand. Officer A then used his/her right hand to open the door. Officer A had a left-handed grip on his/her pistol, which was pointed toward the vehicle’s engine block. When the vehicle came to a stop and he/she attempted to exit the vehicle, Officer A unintentionally fired one round into the dashboard of the police vehicle.

The BOPC noted that the UOFRB assessed Officer A’s TUD. The UOFRB noted Officer A made the conscious decision to unholster his/her pistol while still seated in his/her police vehicle. The UOFRB emphasized that instead of holstering his/her pistol to open his/her car door, he/she transitioned his/her pistol from his/her right to his/her left hand. When the police vehicle came to a stop, Officer A subsequently placed his/her finger on the trigger. Therefore, the UOFRB opined that Officer A’s violation of multiple Basic Firearm Safety rules resulted in his/her TUD.

Based on the totality of the circumstances, the BOPC determined that Officer A's TUD was the result of operator error and a failure to adhere to the Department's Basic Firearm Safety Rules. Accordingly, the BOPC found Officer A's unintentional discharge to be negligent.

Lethal Use of Force

Officer A - Pistol. Eight rounds fired in three seconds in a southeasterly direction from an approximate distance of 26 feet.

According to Officer A, when he/she exited his/her police vehicle and went into foot pursuit, he/she observed the Subject reach into his waistband and retrieve a pistol. Officer A continued to give commands to the Subject to "drop the gun;" however, the Subject continued to run through the vacant lot. The Subject did not comply with Officer A's commands and raised his right arm as he pointed a pistol at Officer A. In response, Officer A utilized a two-handed grip and fired eight rounds from his/her pistol, in a southeasterly direction, from approximately 26 feet. According to Officer A, he/she believed that the Subject fired at him/her and that there was a continued imminent threat of death or serious bodily injury. Officer A explained that he/she assessed after every round fired and observed the Subject continue to point the pistol at him/her and present an imminent threat of serious bodily injury or death.

The BOPC noted that in the Chief of Police's review of this incident, he noted that when Officer A fired rounds one and two, he/she was confronted by the Subject pointing a pistol at him/her, whom he/she believed posed an imminent threat of death or serious bodily injury. In immediate defense of his/her life, Officer A had no alternative but to use lethal force. Additionally, after a review of the available BWV footage, along with the officer's statements and the physical evidence, it appears that when Officer A fired rounds three through eight, the Subject had turned and was running away with a pistol in hand. The Subject no longer posed an imminent threat and was trying to evade officers. At this point, Officer A should have considered other alternatives such as obtaining cover or initiating containment.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe that the lethal use of force regarding rounds one and two were proportional, objectively reasonable, and necessary. Furthermore, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would not reasonably believe that the lethal use of force regarding rounds three through eight were proportional, objectively reasonable, and necessary. Therefore, the BOPC found Officer A's lethal use of force for rounds one and two to be In Policy, and the BOPC found Officer A's lethal use of force for rounds three through eight to be Out of Policy.