

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

**OFFICER-INVOLVED SHOOTING – 007-22**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No()</b>
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Newton	3/29/22		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	5 years, 10 months
Officer B	15 years, 9 months

**Reason for Police Contact**

Officers responded to an “ADW suspect there now” radio call. The comments of the call indicated that the Subject was pointing a gun at citizens. An air unit located the Subject and advised responding officers that he was firing a handgun into a residence. Moments later, officers arrived at the scene and observed the Subject pointing what they believed to be a handgun at a motorist, resulting in an officer-involved shooting (OIS).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Male, 45 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; 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 February 14, 2023.

## **Incident Summary**

On March 29, 2022, at approximately 1857 hours, Witness A was stopped for a red light. While there, Witness A observed the Subject standing on the sidewalk south of him. According to Witness A, the Subject was looking around and waving his arms back and forth as if he was nervous and wanted to fight someone. Moments later, the Subject approached within four feet of Witness A's front-passenger window, removed a black handgun from his waistband, and pointed it at Witness A. In response, Witness A quickly drove away and called 911 to report the incident.

When later interviewed, Witness A told investigators, "I stop at the light, and I saw the guy standing at the corner. And I saw him, and he saw me, and he pulled out the gun and next to my window and he pulled it at me. So I just took off. I got panicked. I got scared. I took off, but at the same time, I just went around the block and called the police. And I went up again [...], and I saw him waving the gun at the cars." Witness A described the gun as a black pistol with "something" attached underneath the barrel.

Upon receiving Witness A's call, Communications Division (CD) generated an "assault with deadly weapon suspect there now" radio call. According to the comments of the call, the Subject was walking while pointing a handgun at passersby, including patrons inside a restaurant.

Officers A and B responded to the call. While en route, Officer A read the comments of the call to Officer B, who was driving their police vehicle. As the officers responded, an Air Unit staffed by a Pilot Officer and Tactical Flight Officer C, arrived over the incident and requested additional information. CD advised the Air Unit that the Subject was brandishing a gun at customers inside of a restaurant.

Officer C ultimately located the Subject. According to Officer C, the Subject punched the window of a parked vehicle before he raised his arms up toward the air unit. When later interviewed, Officer C stated, "And then he began walking off westbound again, looking up at us. And it appeared that he was either flipping us off or throwing gang signs or yelling in a gesture doing something with his hands."

According to Officer C, as the Subject walked west, he reached into his front waistband with his left hand and removed a black object in a manner that led Officer C to believe it was a handgun. In an effort to verify his/her observations, Officer C utilized his/her binoculars and saw what appeared to be a black pistol in the Subject's hand. He/she then observed the Subject hold the pistol in a two-handed shooting grip and believed the Subject fired into a residence. When later interviewed, Officer C told investigators, "He [the Subject] walks up to this blue house, looked like there was a fence blocking at the sidewalk. He points this black object at the house and it appears to me like he's getting barrel recoil, like he's firing a weapon. At that point I think I put out that he's shooting shots inside of a house -- or at a house. He's shooting at this house."

The investigation determined that the Subject was not armed with a firearm; however, he did point a large, black, cellular telephone at several different times during this incident.

As Officers A and B drove toward the Subject's location, they heard Officer C broadcast, "It looks like he might have a... he does have a handgun. He's firing at a house right now... Looks like he fired a couple rounds at a house on the south side of the street. Gun's going to be in his left hand right now."

Approximately five seconds later, Officer A observed the Subject on the south sidewalk. Officer A used his/her police radio to broadcast a backup request while he/she simultaneously unholstered his/her duty pistol and opened his/her ballistic door. Immediately prior to stopping their police vehicle, Officer B stated, "You might have to shoot! You might have to shoot!" When questioned regarding this statement, Officer B said he/she believed the Subject was shooting into a residence and there were already potential victims shot. He/she wanted to ensure that Officer A was ready to make contact, knowing that immediate action may be required, and he/she would have a delayed response due to being the driver and having to place the vehicle in park.

Officer B stopped their police vehicle in the roadway, facing southwest, approximately 70 feet east of the Subject. Simultaneously, the Subject moved northwest on the sidewalk.

According to Officer A, as their police vehicle came to a stop, he/she observed the Subject focus his attention on an occupied white sport utility vehicle (SUV) that was stopped in the road. Officer A then observed the Subject standing in an "isosceles shooting stance" (i.e., both arms fully extended, with both feet approximately under both shoulders) and pointing what he/she believed to be a black or blue steel pistol at the motorist in the white SUV.

Officer C broadcast, "Hey! Let me get a backup. Keep the frequency clear. Hey guys, right in front of you, he's got a handgun in his hand." Simultaneously, Officer A exited his/her police vehicle, stood behind his/her ballistic door, and fired four rounds at the Subject. When later interviewed, Officer A told FID investigators he/she fired these rounds, "To defend -- in defense of, um, an imminent -- what I believed imminent threat against, um, a motorist's life and -- and/or great bodily injury of that motorist and also myself given that I was within the range of fire where he was facing, motioning to the north -- northeast direction."

According to Officer A, as he/she fired, he/she observed the Subject continuously pointing the firearm in the motorist's direction and he/she stopped firing once the Subject dropped the firearm. Immediately after the OIS, Officer A used his/her police radio to broadcast an "officer needs help" call.

Officer A's body-worn video (BWV) shows the OIS occur at 1901:44 hours. Officer A fired his/her handgun while still holding the police vehicle's radio handset in his/her left hand.

According to Officer A, he/she fired at the Subject's center chest area.

Officer A mistakenly believed he/she only fired two rounds during this incident.

Officer B was placing the police vehicle in park when Officer A fired his/her rounds. Officer B observed the Subject standing on the south sidewalk with his arms locked out in front of his body in a "shooting stance." Although Officer B could not see the Subject's hands, the manner in which he was extending his arms caused him/her to believe the Subject was armed with a gun. In response, Officer B unholstered his/her duty pistol and exited the police vehicle.

Investigators obtained security video footage from a nearby residence. This video footage captures the Subject raise his right arm and point a dark object in the general direction of Officers A and B. The raised arm of the Subject then goes out of view of the camera for approximately two seconds before the Subject then lowers his right arm still holding the dark object. The Subject lowers his arm immediately before the sound of Officer A's gunfire can be heard. The Subject was ultimately struck by one of Officer A's rounds and fell to the sidewalk, where he assumed a prone position next to a parked vehicle.

The following Department personnel responded to Officer A's "officer needs help" call: Officers D, E, F, G, H, I, J, K, L, and Sergeants A, B, C, and D.

After the OIS, Officers A and B moved south to the sidewalk area, approximately 65 feet east of the Subject to get a better view of him and give him commands. The Subject was lying in a prone position on the sidewalk with his hands extended beneath a parked vehicle.

Approximately 90 seconds after the OIS, Sergeant A arrived and declared himself/herself the Incident Commander (IC). According to Sergeant A, he/she directed officers to continue giving commands to the Subject as he/she coordinated with the air unit and established traffic control. As Sergeant A formulated a tactical plan, he/she saw that the Subject was injured and uncooperative. Additionally, he/she saw what he/she believed to be a black handgun immediately next to the Subject's right side. At 1905:30 hours, Sergeant A used his/her police radio to request a Los Angeles Fire Department (LAFD) rescue ambulance (RA) for the Subject and directed it to stage nearby.

As additional resources arrived, Sergeant A assembled a team with two ballistic shields, multiple less-lethal options, a communications officer, designated cover officers (DCOs), and a handcuffing team. According to Sergeant A, he/she believed the tactical situation could quickly escalate based on the Subject's proximity to the handgun and his uncooperative demeanor. To prepare for the possibility of a secondary OIS, Sergeant A

ensured he/she had sufficient resources and a tactical plan in place prior to approaching the Subject.

Sergeant A assembled the following team: Officers H and M as ballistic shield officers; Officers E and L as designated cover officers; Officer J as communications officer; Officer K as beanbag shotgun officer; Officer I as 40mm less-lethal launcher (LLL) officer; and Officers D, F, and G handcuffing officers.

Approximately ten minutes after the OIS, Officers D and F placed the Subject in handcuffs without incident. Officers F and G then assisted the Subject to his feet and walked him to a nearby police vehicle, where he was seated in the rear seat. Approximately two minutes later, Sergeant D drove the Subject one block east to so he could be safely transferred to the care of the LAFD away from the shooting scene.

Sergeant A then separated and monitored Officer A and obtained his/her public safety statement (PSS). Sergeant B separated and monitored Officer B and obtained his/her PSS.

Approximately two minutes later, LAFD RA Firefighter/Paramedics (FFPMs) arrived and began providing medical treatment to the Subject. Upon assessing the Subject, FFPMs determined that the Subject sustained a through and through gunshot wound to the upper portion of his left arm. The Subject was ultimately transported by RA to a hospital for additional treatment.

While Sergeant A was coordinating the arrest team, Sergeant C arrived to assist. During this incident, Sergeant A directed Sergeant C to assemble a team to clear the inside of a residence for potential shooting victims or persons inside who may have fired at the Subject. Sergeant C and his/her team ultimately cleared the residence and determined there were no victims or other suspects inside.

**Body-Worn Video (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	Yes	No	Yes	Yes	Yes
Officer B	Yes	No	Yes	Yes	Yes
Officer C	n/a	n/a	n/a	n/a	n/a
Sergeant A	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, B, C, and Sergeant A's tactics to warrant a finding of Tactical Debrief.

**B. Drawing and Exhibiting**

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

**C. Lethal Use of Force**

The BOPC found Officers A's lethal use of force to be In Policy.

**Basis for Findings**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

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

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

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

**Requirement to Report Potential Excessive Force:** An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer

under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

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

## Definitions

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

**Feasible:** Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

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

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

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

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department

examines all uses of force from an objective standard rather than a subjective standard.

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

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

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

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

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

## A. Tactics

### Tactical De-Escalation

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

#### Tactical De-Escalation Techniques

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

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

**Planning** - Officers A and B have worked together approximately seven times, during which they discussed tactics and contact/cover roles. During their response

to this incident, Officers A and B discussed requesting additional resources once they observed the Subject and using San Pedro Street to give them a better tactical approach to the location. After the OIS, Sergeant A arrived and assembled a tactical team consisting of lethal/less lethal roles and an arrest team. Sergeant A's planning is discussed further under Command and Control.

**Assessment** - Based on the comments of the call and information from the air unit, Officers A and B believed that the Subject was possibly an active shooter. Arriving at the scene, Officer A observed the Subject in an "isosceles shooting stance" and believed he was pointing a handgun at a motorist. After the OIS, Officers A and B assessed the need to obtain additional resources before approaching the Subject, reducing the potential for additional force.

**Time** - Arriving at the scene, Officer A observed the Subject ostensibly pointing a handgun at a motorist; Officer B stopped the police vehicle approximately 70 feet from the Subject, affording the officers distance and cover. Believing the Subject posed an imminent deadly threat, Officer A discharged his/her service pistol. The Subject's actions limited the officers' ability to use time as a de-escalation technique before the OIS. After the OIS, officers used distance and cover to give them time to obtain additional resources and formulate a plan to safely apprehend the Subject.

**Redeployment and/or Containment** - Arriving at the scene, Officer A was immediately faced with what he/she believed was an imminent deadly threat. The Subject's actions limited the officers' ability to use redeployment and/or containment as de-escalation techniques before the OIS. After the OIS, officers contained the Subject on the sidewalk, reducing the potential for additional force.

**Other Resources** - Before Officers A and B arrived at the scene, Air Unit 3 arrived overhead. Arriving at the scene, Officer A observed the Subject ostensibly pointing a handgun at a motorist. Officer A broadcast their Code Six (arrival on scene) and requested a backup for a man with a gun. Based on the Subject's actions, Officers A and B were unable to wait for other resources before the OIS. After the OIS, officers waited for additional resources before approaching the Subject, reducing the potential for additional force.

**Lines of Communication** - While responding to the call, Officer A read the comments of the call to Officer B, including the suspect's description. Orbiting the scene, Officer C broadcast pertinent information to responding units, describing his/her observations, specifically that the Subject was armed with a black handgun and firing at a blue house. Arriving at the scene, Officers A and B continued to communicate as they searched for the Subject. Their communication continued after the OIS, with Officer A designating Officer B as the communications officer, to limit confusion.

The BOPC considered that Use of Force Review Board (UOFRB) noted that while orbiting the scene, Officer C broadcast that the Subject was firing at a residence.

Although it was subsequently determined that the item in the Subject's hand was a cellular telephone, the UOFRB opined that Officer C had a duty to relay his/her observations to responding units and that his/her actions were consistent with the standards and expectations of a Tactical Flight Officer. Additionally, while Officer C's broadcast contributed to Officer A's belief the Subject was possibly an active shooter, the UOFRB noted that Officer A developed independent justification for discharging his/her service pistol.

During the review of this incident, no Debriefing Points were noted.

### **Additional Tactical Debrief Topics**

- **Rendering Aid** – Sergeant A arrived at the scene approximately 90 seconds after the OIS. He/she contained the scene, established a tactical plan, and assembled an arrest team. Approximately ten minutes after the OIS, Sergeant A determined it was safe to approach, and the arrest team took the Subject into custody. While it was prudent to develop a safe approach, it is important to balance tactical planning with the duty to render aid.
- **Drawing Service Pistol While Seated in Vehicle** – Approximately 13 seconds before the OIS, Officer A unholstered his/her service pistol while seated in the passenger seat, as the police vehicle was still in motion. Alternatively, Officer A could have waited until the police vehicle came to a stop before unholstering his/her service pistol.
- **Situational Awareness** – Officer A held the passenger door of the police vehicle open as Officer B drove toward the Subject. Per Officer A, opening the door provided him the ability to exit the vehicle and use the ballistic panel as cover. Because Officer B was still driving and may have had to take evasive actions, the UOFRB would have preferred Officer A had advised Officer B he/she was opening the door.
- **Two-Handed Shooting Grip** – Officer A was holding the police vehicle's in-car radio microphone in his/her left hand when the OIS occurred. While Officer A managed to use a modified two-handed grip during the OIS, alternatively, he/she could have dropped the microphone and acquired a proper two-handed shooting grip.
- **Public Safety Statement** – Sergeant A used an outdated public safety statement (PSS) questionnaire when obtaining Officer A's PSS. The current PSS questionnaire has two additional questions which were not asked.

### **Command and Control**

- After the OIS, Officer A assumed the role of Incident Commander (IC) by designating his/her partner as the sole contact/communications officer, directing responding units, and coordinating traffic control. Officer A was relieved of IC duties by Sergeant A.

Approximately 90 seconds after the OIS, Sergeant A arrived and declared himself/herself as the IC. According to Sergeant A, he/she directed officers to continue giving commands to the Subject as he/she coordinated with the air unit and established traffic control. As Sergeant A formulated a tactical plan, he/she observed that the Subject was injured but uncooperative. Additionally, he/she observed what he/she believed to be a black handgun immediately next to the Subject's right side. Sergeant A requested an RA for the Subject and directed it to stage nearby.

As additional resources arrived, Sergeant A assembled a team with two ballistic shields, multiple less-lethal options, a communications officer, designated cover officers (DCOs), and a handcuffing team. According to Sergeant A, he/she believed the tactical situation could quickly escalate based on the Subject's proximity to the handgun and his uncooperative demeanor. To mitigate the potential for a second OIS, Sergeant A ensured he/she had sufficient resources, a tactical plan in place, and that a verbal warning was given before approaching the Subject.

Before approaching the Subject, officers ordered him to crawl away from the suspected handgun. After the Subject crawled to a position where Sergeant A felt it was safe, the team approached and Officers D and F placed the Subject in handcuffs without incident. Sergeant A then separated and monitored Officer A and obtained his/her PSS. Sergeant B separated and monitored Officer B and obtained his/her PSS.

While Sergeant A was coordinating the arrest team, Sergeant C, arrived to assist. Sergeant A directed Sergeant C to assemble a team to investigate the Adair Street residence for potential victims or suspects. Sergeant C and his/her team ultimately cleared the residence and determined there were no victims or suspects inside.

The BOPC noted that UOFRB assessed Sergeant A's actions and decision-making during this incident. The UOFRB noted that Sergeant A arrived after the OIS and demonstrated active leadership by directing officers to block traffic, organizing an arrest team, requesting an RA to stand by, and directing officers to provide a less-lethal warning to the Subject. The UOFRB also noted that while the Subject had been shot and needed medical attention, his injuries did not appear to be life-threatening, and he did not appear to be in medical distress. The UOFRB determined that based on the totality of the circumstances, it reasonably took Sergeant A approximately 10 minutes to implement a tactical plan that allowed officers to safely apprehend the Subject and render medical aid.

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

## **B. Drawing/Exhibiting**

- **Officer A**

### **First Occurrence**

Officer A responded to an “Assault with a Deadly Weapon Suspect There Now” radio call. As Officer A was responding, Air Unit 3 broadcast that the Subject was armed with a handgun and firing at a house. Arriving at the scene, Officer A observed the Subject standing in a shooting stance ostensibly pointing a handgun at a motorist. Believing he/she may have to use deadly force, Officer A unholstered his/her service pistol.

### **Second Occurrence**

According to Officer A, he/she unholstered his/her service pistol once and holstered it when the Subject was taken into custody. According to his/her BWV, Officer A unholstered two additional times before the Subject was taken into custody.

As it pertains to the second occurrence, according to Officer A, he/she holstered his/her pistol after the OIS to use the public address (PA) system in the patrol vehicle to give the suspect commands. Shortly after, Officer A joined the arrest team and unholstered his/her pistol a second time. Officer A believed the situation could escalate to the use of deadly force because the suspect was near what he/she believed to be a firearm and could fire at him/her, other officers, or citizens.

### **Third Occurrence**

Regarding the third occurrence, as the arrest team approached the Subject, Sergeant A directed Officer A’s attention to the blue house. According to Officer A, he/she understood he/she was to provide cover for the arrest team due to additional suspects potentially being inside that residence. Officer A was unsure if he/she had holstered his/her pistol before receiving direction from Sergeant A but recalled holding his/her pistol at a low-ready to protect officers focused on the Subject.

- **Officer B**

Officer B was placing the police vehicle in park when Officer A fired his/her rounds. Officer B had observed the Subject standing on the south sidewalk with his arms locked out in front of his body in a “shooting stance.” Although Officer B could not see the Subject’s hands, how he was extending his arms caused him/her to believe the Subject was armed with a handgun. In response, B unholstered his/her service pistol and exited his/her police vehicle.

- **Sergeant A**

According to Sergeant A, he/she unholstered his/her pistol because the air unit broadcast that the suspect was armed with a firearm, there had been an OIS, and neither the suspect nor his firearm were in custody. Sergeant A added he/she unholstered after he/she exited his/her vehicle to defend himself/herself against a possible lethal threat.

The BOPC noted that the UOFRB assessed Officers A, B, and Sergeant A's drawing and exhibiting of their service pistols. As it pertains to Officer A, the UOFRB noted that he/she unholstered his/her service pistol the first time when he/she observed the Subject in a shooting stance pointing what appeared to be a handgun at a motorist. The UOFRB also noted that during Officer A's second and third occurrences, neither the Subject nor the suspected handgun had been secured. Additionally, there was a concern that there may have been additional suspects inside the blue house.

Regarding Officer B, the UOFRB noted that although he/she unholstered his/her service pistol after the OIS, he/she had observed the Subject in a shooting stance and believed the situation could again escalate to lethal force. The UOFRB also noted that when he/she unholstered his/her pistol, neither the Subject nor the suspected handgun had been secured.

Concerning Sergeant A, the UOFRB noted that he/she responded to an ADW with a firearm incident that was upgraded to an officer help call with shots fired. Arriving at the scene, Sergeant A unholstered his/her service pistol, met with Officers A and B, and observed what he/she believed to be a handgun near the Subject, who was not yet in custody. The UOFRB also noted that once additional resources arrived, Sergeant A holstered his/her service pistol.

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

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

### **Officer A (pistol, 4 rounds)**

According to Officer A, as their police vehicle came to a stop, he/she observed the Subject focus his attention on a motorist in a white SUV. The Subject then stood in an "isosceles shooting stance," ostensibly pointing a black or blue steel pistol at the motorist. Based on the Subject's actions, comments of the call, and information from the airship, Officer A believed that the Subject was indiscriminately targeting people and may have been an active shooter. Officer A also believed that he/she and his/her partner were in the Subject's "range of fire." In response, Officer A



discharged four rounds from his/her service pistol, to protect himself/herself, his/her partner, and the unidentified motorist from serious bodily injury or death. According to Officer A, as he/she fired, he/she observed the Subject continuously pointing the handgun in the motorist's direction. Officer A stated he/she stopped firing when the Subject dropped the handgun. According to Officer A, he/she assessed after every round. Officer A initially believed he/she discharged two rounds; however, he/she subsequently realized he/she discharged four rounds.

The BOPC noted that the UOFRB assessed Officer A's lethal use of force. The UOFRB noted that Officer A responded to an "assault with a deadly weapon suspect there now" radio call, the comments of which indicated the Subject was pointing a handgun at bystanders. As Officer A was responding, Air Unit 3 advised that the Subject was firing at a residence. Arriving at the scene, Officer A observed the Subject in a shooting stance, ostensibly pointing a handgun at a motorist. Although the item in the Subject's hand was ultimately determined to be a cellular telephone, based on the available evidence, the UOFRB opined that the Subject was using the phone to simulate a firearm. Based on the totality of the circumstances, the UOFRB opined that Officer A reasonably believed the Subject posed an imminent deadly threat and that the lethal use of force was objectively reasonable and necessary.

As it pertains to the number of rounds fired, the UOFRB noted that although Officer A initially believed he/she discharged two rounds, he/she later discovered that he/she discharged four. However, based on Officer A's statement, it appeared he/she assessed between rounds and ceased firing when he/she no longer believed that the Subject posed an imminent deadly threat. Based on the available evidence, the UOFRB opined that Officer A's belief was reasonable and that the force used was proportional to the perceived threat.

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