

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

**OFFICER-INVOLVED SHOOTING – 022-22**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No()</b>
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Hollywood	6/8/22		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer C	6 years
Officer D	7 years
Officer E	11years, 10 months

**Reason for Police Contact**

On June 8, 2022, at approximately 1654 hours, officers were maintaining a perimeter for burglary suspects when they observed one of the suspects (Subject 1) and attempted to detain him. As the officers approached, Subject 1 pointed a handgun at one of the officers, resulting in an officer-involved shooting (OIS).

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded (X)</b>	<b>Non-Hit ()</b>
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Male, 27 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; 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 April 25, 2023.

## **Incident Summary**

On June 8, 2022, at approximately 1550 hours, the Victim received a phone call from one of her tenants who advised her that several strangers were trespassing on one of her rental properties. In response, the Victim remotely reviewed her security cameras and observed three individuals who did not belong on the property. When the Victim reviewed the video footage, she observed one of the individuals, who was later identified as Subject 1, take a package that belonged to one of her tenants. The Victim then called 911 and advised Communications Division (CD) of the incident.

The following Hollywood Patrol Division personnel responded to this incident: Officers A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, and S, and Sergeants A and B.

Officers A and B were assigned the 911 call and, as they approached the location, they requested an air unit (helicopter). The officers observed Subjects 1 and 2 walking west toward the Victim's property. Upon seeing the officers, Subjects 1 and 2 turned and fled. In response, Officer A broadcasted a backup for possible burglary suspects and directed responding units to establish a perimeter.

Approximately four minutes later, Officers K and L established a containment position and they briefly observed Subjects 1 and 2 running east across the street. The officers lost sight of Subject 1 but located Subject 2 hiding behind a row of bushes and subsequently took him into custody without incident.

Officers C and D arrived and established a containment position. While there, they heard CD broadcast that a person matching Subject 1's description had been seen hiding nearby. According to Officer D, he/she and Officer C were positioned on the west side of the perimeter, which was a considerable distance from Subject 1's location. In response, Officers C and D redeployed to a parking lot, where they reestablished a containment position.

Officers S and T positioned themselves two properties north of Officers C and D. Officer T spoke with a postal service driver who advised that he observed a male matching Subject 1's description run east through the location. Officer S immediately relayed that information to the officers on the perimeter.

Upon hearing the information, Officer D advised Officer C that he/she would move to the west sidewalk to monitor the area. Officer D repositioned, and Officer C remained near their police vehicle.

Investigators obtained security video footage from a hotel. The video captured Subject 1 entering the covered parking garage from the east entrance and walk west prior to Officer S's broadcast. The footage shows that Subject 1 removed his white T-shirt and held it in his right hand. He then moved to the garage's vehicle entrance which faced west. Approximately 20 seconds later, Subject 1 ran out of the garage and turned south onto the east sidewalk.

Then Officers C and D maintained their containment positions on the west side of the street. Officer C was standing near his/her police vehicle while Officer D was on the west sidewalk. Officer C observed Subject 1 walking south on the east sidewalk of the street and alerted Officer D, who also observed Subject 1.

In an attempt to detain Subject 1, the officers ran east across the street. As they did so, Subject 1 began running south on the east sidewalk. Simultaneously, Officer D used his/her hand-held radio to broadcast that they were in foot pursuit as Officer C ordered Subject 1 to stop. As the officers approached Subject 1, he ran to the front of a gray Honda Accord that was stopped facing east in the driveway of a condominium complex.

According to the officers, when they initiated their foot pursuit, neither officer believed that Subject 1 was armed. The investigation determined there were no previous broadcasts, including the comments of the radio call, describing Subject 1 as being armed.

The driver of the gray Honda Accord was Witness A. According to Witness A, her vehicle was facing east in the driveway while she was waiting for the security gate to open. As she rolled down her window to access the intercom panel, Witness A observed police officers approaching her vehicle from across the street. She then looked forward and saw Subject 1 leaning on the front hood of her car while holding a black handgun in his left hand. Witness A was terrified and immediately ducked down.

According to Officer C, Subject 1 ducked behind the hood of the gray Honda Accord as if he was attempting to use the vehicle for cover. Additionally, Officer C believed that Subject 1 was attempting to conceal "something" based on his body position and the way he was "holding his arms and hunching." Officer C was concerned that Subject 1 would carjack the Accord and kidnap the driver. In response, he/she unholstered his/her pistol and positioned himself/herself near the rear driver's side of the Accord.

During the ensuing three seconds, Subject 1 ran north from the front of the Accord, raised his arms, and assumed what Officer C described as a "shooting stance" while pointing a black handgun at Officer C's face. In response, Officer C fired two rounds at Subject 1's center mass from an approximate distance of 12 feet. Officer C stopped firing when he/she observed Subject 1 drop his gun.

When later interviewed, Officer C stated, "He, all of a sudden ran real fast around the side of the car. He shot his arms up basically as he came running around and took a shooting stance holding the firearm, and I saw the barrel of the gun just pointed right at my face at that point. Um, at that point I -- I thought he was going to kill me. I feared for my life. I thought he was going to kill me and possibly kill my partner, maybe take that person's car that was sitting there. Um, yeah, he was an imminent threat to me, so I had to stop the threat. I fired two rounds until I did not perceive the threat anymore. After firing those rounds, I -- I saw that he dropped, like, I hit him in the hand, and he dropped the firearm out of his hand at that point."

The investigation determined that just prior to the OIS, Subject 1 raised and extended both arms at chest level in Officer C's direction.

Officer C believed that Subject 1 dropped his handgun in the driveway. The investigation determined that Subject 1 dropped a loaded 9mm handgun and a white T-shirt into a planter bed on the north edge of the driveway.

Immediately after Subject 1 dropped the handgun, he ran north on the street, with Officers C and D following in foot pursuit. Subject 1 unsuccessfully attempted to enter a silver Kia Optima that was stopped in a center turn lane. Officer D then broadcast, "shots fired, shots fired, officer needs help!" Subject 1 continued running north between stopped vehicles before suddenly turning and running south. He then unsuccessfully attempted to enter a silver Ford Escape that was stopped in the southbound lanes. Approximately ten seconds later, Officer D broadcast, "[W]e got shots fired!" Subject 1 continued running south, where he unsuccessfully attempted to enter a red Toyota Prius that was stopped in the southbound lanes. Subject 1 opened the Prius' driver's door but continued running when the driver regained control of the door and closed it.

Throughout this portion of the foot pursuit, Officers C and D remained unholstered because they believed Subject 1 could be armed with additional weapons and were concerned that he had already made multiple attempts to carjack occupied vehicles.

According to Officer D, he/she was concerned for the safety of civilians in the area based on Subject 1's continued efforts to enter stopped vehicles. In an attempt to prevent Subject 1 from carjacking one of the vehicles, Officer D holstered his/her pistol and unholstered his/her TASER. He/she alerted Officer C and stated, "I'ma tase him, I'ma tase him." Officer D then targeted the center of Subject 1's back and discharged the TASER from approximately 0 to 15 feet. Officer D observed one of the darts contact Subject 1's back, but it was ineffective, as Subject 1 continued running southbound.

Officer D indicated he/she did not give Subject 1 a verbal warning prior to discharging the TASER because Subject 1 was actively fleeing and had already attempted to carjack multiple vehicles.

The investigation determined that both TASER cartridges were discharged during this incident. The duration of the first discharge was 0.1 second. The second discharge occurred approximately 0.5 second later and lasted the entire five-second cycle. Officer D only recalled discharging his/her TASER one time.

Shortly after Officer D discharged his/her TASER, Officers I, J, M, and N arrived to assist. The officers followed Subject 1 as he continued south. Shortly after, Officers E and F arrived and observed Subject 1 being pursued in the street. Officer E was aware that Subject 1 had attempted a carjacking and was concerned for the community members in the area. He/she indicated that he/she could see that Subject 1 was no longer armed and believed that he needed to be immediately taken into custody.

Officer E ran up from behind Subject 1 and used his/her forearms to push Subject 1's upper back. The push caused Subject 1 to fall forward onto his stomach with both arms outstretched above his head.

When asked about his/her decision to push Subject 1, Officer E stated, "So, as I approach, I see. I want to take him into custody quickly [...]. So, I just -- I would describe it as, you know, I don't -- I -- I can see that he's covered in blood, right, and he's a fairly large guy. I don't think it's appropriate for me to just to try grab his arm and wrestle him at that point, so I kind of want to end it quickly. So, I had used -- I just call it maybe it -- it looks like a -- a forearm check just to try to push him forward and knock him over to force him down facedown. It was effective. So, just sort of what we call checking or forearm checking and just once he falls down face first. His --both his hands land in front of him so I can see that his hands and I could -- and now I could see he's unarmed."

Once on the ground, Officer E straddled Subject 1's waist and applied bodyweight to control him. Simultaneously, Officer F utilized firm grips on Subject 1's upper left arm and shoulder, while Officer J utilized firm grips on Subject 1's upper right arm and back. Officer E maintained control of Subject 1, while Officers F and J donned latex gloves and handcuffed Subject 1's wrists. As officers were taking Subject 1 into custody, Sergeant A arrived and immediately requested a rescue ambulance (RA) for Subject 1 at 1656:19 hours.

During a search incident to arrest, Officers F and J did not locate any weapons or contraband. While waiting for the RA, the officers assessed Subject 1's injuries and rolled him into a left-lateral recumbent position. The officers identified a gunshot wound to the middle portion of Subject 1's right forearm and a gunshot wound near his right wrist. Officer J applied a tourniquet to Subject 1's right arm, while Officer E applied a bandage to Subject 1's right forearm.

Approximately 15 minutes after Subject 1 was taken into custody, a Los Angeles Fire Department (LAFD) RA arrived and began providing medical care to Subject 1. Approximately three minutes later, the RA transported Subject 1 to a hospital where he was treated.

Subject 1 was subsequently arrested and absentee booked for Assault with a Deadly Weapon (ADW) on a Police Officer.

### **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 C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes

Officer E	No	Yes	Yes	Yes	Yes
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**Los Angeles Board of Police Commissioners’ 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 C, D, and E’s tactics to warrant a finding of Tactical Debrief.

**B. Drawing/Exhibiting**

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

**C. Non-Lethal Use of Force**

The BOPC found Officer E’s non-lethal use of force to be In Policy.

**D. Less-Lethal Use of Force**

The BOPC found Officer D’s less-lethal use of force to be In Policy.

**E. Lethal Use of Force**

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

**Basis for Findings**

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

The Department’s guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department

personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

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

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

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

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

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

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

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

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



any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

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

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

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

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

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

**Rendering Aid:** After any use of force, officers shall immediately request a RA 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 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 C and D had worked together approximately five times and discussed contact and cover roles, non-lethal and lethal force, foot pursuits, and the need to be flexible during tactical situations. Realizing that their position was a considerable distance from Subject 1's reported location, Officers C and D moved to a parking lot closer to where he had last been seen. Based on Officer S's broadcast that Subject 1 was seen running, Officer D moved to the sidewalk to watch for Subject 1, while Officer C remained near their police vehicle to do the same.

Officers C and D observed Subject 1 walking south on the east sidewalk. Based on their assessment, they opined that he was the burglary suspect and attempted to detain him. Observing Subject 1 duck in front of the Honda Accord, Officer C opined that he was trying to conceal something and took a position near the Accord's left-rear corner. Subject 1's subsequent actions of pointing a handgun at Officer C limited the officers' ability to use further de-escalation techniques at that point. However, after observing that Subject 1 had dropped his handgun, Officer C assessed that the imminent deadly threat had passed and determined that lethal force was no longer needed.

**Time and Redeployment/Containment** – When Subject 1 initially fled on foot, officers established a perimeter to contain the area and safely apprehend him. After observing Subject 1 outside of the perimeter, Officers C and D attempted to detain him. Although both officers approached him on foot, neither officer believed that he was armed. When Subject 1 ducked in front of the Accord, both officers slowed and

took positions near the rear of the Accord. Officer C knew the Accord was occupied and did not want to use it as cover. Regardless, Subject 1's subsequent action of pointing a gun at Officer C limited the officers' ability to use time as a de-escalation technique, as did Subject 1's subsequent attempts to enter the occupied vehicles. Officers C and D did maintain some distance as they pursued Subject 1 through traffic and ordered him to stop. Officer D also attempted to maintain distance by discharging his/her TASER; however, it failed to stop Subject 1. Seizing an opportunity to end the situation without the need for a higher level of force, Officer E approached Subject 1 from behind and used non-lethal force to apprehend him.

**Other Resources and Lines of Communication** – Multiple units, including air support (a helicopter), responded to Officers A and B's request for backup units. While on the perimeter, Officer S advised units that Subject 1 was seen crossing Highland Avenue. Observing Subject 1 on the east sidewalk, Officer D advised units that he had been located and that officers were in foot pursuit. Before the OIS, Officer C attempted to communicate with Subject 1 by ordering him to stop. Subject 1 ignored the command and pointed a gun at Officer C, limiting his/her ability to use additional de-escalation techniques. After the OIS, officers repeatedly ordered Subject 1 to stop as he fled through traffic and attempted to enter occupied vehicles. As officers pursued Subject 1, the air unit (helicopter) provided updated information to responding units. Before discharging his/her TASER, Officer D advised Officer C that he/she was going to use it. After Officer D discharged his/her TASER, Officers E, F, I, J, M, and N arrived to assist. After pushing Subject 1 to the ground, Officer E ordered him not to move. Officer E also advised his/her partners to don protective gloves and ensured that they moved in a controlled manner while handcuffing Subject 1.

The BOPC considered that the UOFRB noted that Officer C saw Subject 1 drop the handgun but did not advise his/her partner. Although Officers C and D communicated well throughout the incident overall, the UOFRB would have preferred that Officer C had communicated this observation to Officer D.

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

### **Debriefing Point No. 1 Running with a Pistol**

While pursuing Subject 1 through traffic, Officers C and D ran with their service pistols unholstered. Officers C and D remained unholstered because they believed that Subject 1 could be armed and were concerned that he had already made multiple attempts to enter occupied vehicles.

The BOPC noted that the UOFRB assessed Officers C and D's decision to run with drawn pistols. The UOFRB noted that Subject 1 had pointed a handgun at Officer C and then fled after the OIS. Although Officer C knew that Subject 1 had dropped the handgun, he/she was concerned that Subject 1 may have additional weapons. Officer D did not know that Subject 1 had dropped the handgun; however, both

officers observed him trying to enter occupied vehicles, ostensibly to carjack them. Based on the totality of the circumstances, the UOFRB opined that it would have been reasonable for the officers to believe that the situation may again escalate to lethal force.

As it pertains to firearms safety, the UOFRB was concerned that one of the officers could have inadvertently covered a citizen with their service pistol. Based on the available evidence, the UOFRB was unable to confirm any specific incident where this occurred. Regardless, the UOFRB opined that this would be a worthy point of discussion during the Tactical Debrief. Also, while the UOFRB would have preferred that the officers had holstered their service pistols as they ran, unholstering intermittently as needed, they determined that Officers C and D's actions were reasonable based on the situation.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers C and D did not substantially deviate from Department-approved tactical training.

### **Additional Tactical Debrief Topics**

Holding Service Pistol in One Hand, Radio in the Other – Before the OIS, Officer D unholstered his/her service pistol while holding his/her police radio. After the OIS, Officer D temporarily pursued Subject 1 while holding his/her radio in his/her left hand and his/her firearm in his/her right hand. Alternatively, he/she could have secured his/her radio while unholstering his/her service pistol and vice versa.

Profanity - While attempting to gain Subject 1's compliance, Officers C, D, and E used profanity. While the officers' use of profanity was not excessive or personal and intended to gain compliance, it was not best practice.

### **B. Drawing/Exhibiting**

- **Officer C – First Occurrence**

According to Officer C, Subject 1, a burglary suspect, ducked behind the hood of a gray Honda Accord as if he was attempting to use the vehicle for cover. Based on Subject 1's body position and the way he was holding his arms and hunching down, Officer C believed that he was attempting to conceal something. According to Officer C, burglary suspects are known to carry tools and weapons. Officer C was also concerned Subject 1 would kidnap the Accord's driver or try to get into it. Believing that the situation could escalate to lethal force, Officer C unholstered his/her service pistol.

- **Officer C – Second Occurrence**

The investigation determined that Officer C holstered and then immediately unholstered his/her pistol a second time just before Officer D discharged his/her TASER. Officer C did not recall unholstering his/her pistol a second time. He/she stated that if he/she had, he/she would have done so due to his/her belief that Subject 1 was possibly armed with additional weapons.

- **Officer D**

According to Officer D, he/she saw Subject 1 running on the east sidewalk of Highland Avenue. Subject 1 matched the description of the burglary suspect who the officers were looking for. Officer D unholstered his/her pistol due to his/her training and experience that burglary suspects are known to carry weapons including firearms and heavy metal tools that could cause serious bodily injury or death.

The UOFRB assessed Officers C and D's drawing and exhibiting of their service pistols. The UOFRB noted that both officers knew that Subject 1 was a burglary suspect. Based on their experience, both officers knew that burglary suspects sometimes carry weapons and/or tools that can be used as weapons. Additionally, Officer C observed Subject 1 duck in front of the Accord as if concealing something or possibly arming himself. Based on the totality of the circumstances, the UOFRB opined it was reasonable for both officers to unholster their service pistols.

As it pertains to Officer C's second occurrence, based on the available evidence, the UOFRB opined that it was effectively a continuation of his/her first occurrence. At the time, Subject 1 was still attempting to flee through traffic and Officer D was preparing to discharge the TASER. As such, it would be reasonable to expect Officer C to provide lethal cover for his/her partner.

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

### **C. Non-Lethal Force**

#### **Officer E – Physical Force and Bodyweight**

Shortly after Officer D discharged his/her TASER, Officers E and F arrived and observed officers in foot pursuit of Subject 1. Officer E was aware that Subject 1 had attempted to carjack a vehicle and was concerned for the public's safety. He/she could see that Subject 1 was no longer armed and believed that he/she needed to be immediately apprehended. Officer E approached Subject 1 from behind and pushed his upper back with his/her (Officer E's) forearms. The push caused Subject 1 to fall to his stomach with both arms outstretched above his head. Officer E then straddled Subject

1's waist and applied body weight to control him. Officer E maintained control of Subject 1, while Officers F and J donned latex gloves and handcuffed Subject 1's wrists.

The BOPC noted that the UOFRB evaluated Officer E's non-lethal use of force. The UOFRB noted that Officer E observed officers pursuing Subject 1 on foot. Officer E was aware that Subject 1 had attempted to carjack vehicles and was concerned about the public's safety. Officer E was also aware of the increased pedestrian activity and wanted to stop Subject 1 before he reached Franklin Avenue. Observing that Subject 1 appeared to be unarmed, Officer E seized an opportunity to end the situation without the need for a higher level of force. The UOFRB also noted that Officer E was cognizant of Subject 1's breathing and applied body weight in a manner that would not compromise his respirations. While the UOFRB would have preferred that Officer E had not used profanity, they noted that he/she effectively communicated with his/her partners, ensuring they donned protective gloves and moved in a controlled manner while handcuffing Subject 1.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer E, in the same situation, would reasonably believe that the use of body weight and physical force was proportional and objectively reasonable. Therefore, the BOPC found Officer E's non-lethal use of force to be In Policy.

#### **D. Less-Lethal Use of Force**

##### **Officer D**

**TASER** – Two cartridges from approximately 10 to 15 feet.

According to Officer D, based on Subject 1's continued efforts to enter occupied vehicles, he/she was concerned for the public's safety. In response, Officer D transitioned from his/her service pistol to his/her TASER and alerted Officer C that he/she was going to tase Subject 1. Officer D indicated that he/she did not give Subject 1 a verbal warning before discharging the TASER because Subject 1 was fleeing and had already attempted to enter multiple vehicles. To prevent Subject 1 from carjacking a vehicle, Officer D targeted the center of Subject 1's back and discharged his/her TASER from approximately 10 to 15 feet. Officer D observed that one of the TASER's probes contacted Subject 1's back, but it was ineffective, and Subject 1 continued running south.

Although Officer D only recalled discharging his/her TASER one time, the investigation determined that both TASER cartridges were discharged during this incident. The duration of the first discharge was 0.1 second. The second discharge occurred approximately 0.5 second later and lasted the entire five-second cycle.

The BOPC noted that the UOFRB evaluated Officer D's less-lethal use of force. The UOFRB noted that despite repeated commands to stop, Subject 1 continued his efforts



to elude officers and enter an occupied vehicle, ostensibly to commit a carjacking. Based on his actions, the UOFRB opined that Subject 1 posed an immediate threat to the public's safety when Officer D discharged his/her TASER.

As it pertains to the UOF warning, the UOFRB noted that Officer D indicated that he/she did not provide one since Subject 1 was actively fleeing and attempting to carjack vehicles. While the UOFRB would have preferred that a warning had been given, based on Subject 1's continuing efforts to evade apprehension and enter occupied vehicles, the UOFRB opined that the officers needed the element of surprise. The UOFRB also opined that it was more important for Officer D to use the available time to warn his/her partner of the impending discharge than issue a UOF warning. The UOFRB opined that by warning his/her partner, Officer D was mitigating the potential for contagious fire.

The UOFRB noted that as part of his/her justification for not providing a UOF warning, Officer D stated that it was because Subject 1 was fleeing. The UOFRB also noted that per the Department's TASER directive, the device should not generally be used on a fleeing suspect. However, the UOFRB opined that the spirit of the policy is to prevent a suspect who is running from being injured as a result of his momentum while experiencing neuromuscular incapacitation. Based on the available evidence, it appeared that Subject 1 had momentarily slowed his forward momentum when the TASER was discharged. Furthermore, the use of the TASER against a fleeing suspect is generally discouraged, but not prohibited. As Officer D indicated, Subject 1 also posed an immediate threat to the public.

As it pertains to the second discharge, the UOFRB noted that Officer D only recalled discharging his/her TASER once. While the second discharge was unintentional, the UOFRB opined that when it occurred, Officer D was still faced with the same rapidly unfolding events in which Subject 1 posed an immediate threat to the public's safety. The UOFRB also noted that the second discharge occurred approximately 0.5 second after the first. While unintentional, based on the available evidence, the UOFRB opined that Officer D's assessment and justification for the initial discharge applied to the second discharge. As such, the UOFRB opined that both TASER activations were proportional and objectively reasonable under the circumstances.

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

## **E. Lethal Use of Force**

### **Officer C – (pistol, two rounds)**

According to the FID investigation, Subject 1 ran north from the front of the Honda Accord, raised his arms to chest level, and assumed a shooting stance while pointing a

black handgun at Officer C's face. In response, Officer C fired two rounds at Subject 1's center body mass from approximately 12 feet. Officer C stopped firing when he/she observed Subject 1 drop his gun.

The BOPC noted that the UOFRB evaluated Officer C's lethal use of force. The UOFRB noted that when Officer C observed Subject 1 duck in front of the Accord, he/she positioned himself/herself near the left-rear portion of it. Because the Accord was occupied, Officer C wanted to avoid using it for cover as it would have risked the driver's safety. The UOFRB also noted that as Officer C stood to the rear of the Accord, Subject 1 quickly emerged from in front of it and pointed a handgun at Officer C's face, forcing Officer C to make a split-second decision to discharge his/her service pistol. Based on the dynamic nature of this incident, the UOFRB opined that Officer C did not have time to seek alternative cover before the OIS occurred. Based on Subject 1's actions, the UOFRB also opined that Officer C reasonably believed that he posed an imminent deadly threat.

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