

The following incident was adjudicated by the BOPC on June 6, 2023.

Incident Summary

On June 23, 2022, at approximately 0025 hours, Officers A and B were driving in a marked black and white police vehicle when they observed a gray Infiniti traveling in front of them at a high rate of speed. The officers observed the Infiniti drive west through a red traffic signal.

The posted speed limit on the road where the officers first observed the Infiniti is 35 miles per hour (MPH). Officer A indicated that he/she first observed the vehicle from a distance of 500-700 feet and believed it was traveling more than 70 MPH. Officer B indicated that he/she first observed the vehicle from approximately two blocks away and believed it was traveling 90-100 MPH.

The officers caught up to the Infiniti as it turned north. Officer B performed a query of the vehicle's license plate number on their mobile digital computer (MDC) before Officer A activated their emergency lights and siren. In response, the Subject, stopped his vehicle. Simultaneously, Officer B used his/her police radio to place their unit Code Six (on scene for an investigation).

At the time of the stop, the Subject's front windows were down, while the rear tinted windows remained up. Officer A instructed the Subject to lower the rear windows. The Subject responded that his windows were already down. Officer A then directed the Subject to also lower his rear windows. The Subject did not comply and approximately 10 seconds after the stop began, he unexpectedly accelerated away from the stop.

As the Subject drove away, the officers immediately re-entered their police vehicle and shut off their body-worn video (BWV) cameras and their vehicle's digital in-car video (DICV) camera. The officers indicated that they did so because they did not anticipate any further contact with the Subject.

According to Officer A in his/her first interview, "When he did that [Subject drove away from the traffic stop], both my partner and I went back into our police vehicle. We had made a quick determination that we weren't going to go into pursuit based on traffic infractions and LAPD policy, which states that you are not to go into a pursuit just for traffic infractions. So knowing that, we turned off our DICV and body-worn video because we didn't anticipate any further public contact."

Investigators asked Officer B, if he/she considered leaving the DICV on as they checked the area for the Subject. Officer B replied, "I did not. Um, because I -- I immediately just was concerned to see if anybody was actually hurt. So the least of my concerns at that time was, is my DICV on, um, simply because at the time the suspect had already fled and we were not contacting anybody at the time. But if that would have been different, then I would have remained on."

According to the officers, they considered pursuing the vehicle but did not believe that the previously observed vehicle code violations were enough to justify a pursuit under LAPD policy. Instead, the officers drove north along the Subject's suspected path of travel without their lights or siren activated. Their intent was to check the area to see if the Subject had parked his vehicle nearby. Additionally, Officer B indicated that he/she was concerned that the Subject may have crashed his vehicle and injured someone based upon how he was driving prior to their traffic stop.

Investigators asked Officer B, if he/she considered putting out a broadcast? Officer B replied, "I considered it but I did not put out the broadcast, um, simply because, um, I was a little bit more concerned to check if there was any victims of a traffic collision or if he had hit anybody or if anybody was down just due to the fact that, um, he sped off from our traffic stop. And, um, we -- I had spoken to my partner about that and that's why we took the route we did in order to verify if anybody was hurt."

The officers' subsequent route of travel was captured on the 60-second post-event buffer of the officers' DICV. As the officers drove in the area, Officer B believed that he/she observed the Infiniti's brake lights through an open space between buildings.

According to Officer B, as they traveled east, he/she observed a similar looking vehicle parked in a driveway on the south side of the street. In response, Officer B directed Officer A to stop their police vehicle so that he/she could exit and confirm the license plate.

BWV evidence showed that Officers A and B removed their seatbelts just prior to reaching the driveway where the Infiniti was parked, and that Officer B made a hand gesture consistent with telling Officer A to slow down. The investigation revealed that due to the positioning of the Subject's Infiniti vehicle on the driveway, it would not have been visible at the time the officers took off their seatbelts or when Officer B told Officer A to slow down.

When interviewed, Officer B indicated he/she planned to check the vehicle's license plate and if it matched, he/she would broadcast their updated location to Communications Division (CD).

Officer B exited the police vehicle and moved southwest to the front of a gray vehicle that was parked along the curb. As he/she moved, Officer B shined his/her flashlight on the back of the Infiniti. Simultaneously, Officer A exited and moved around the back of the police vehicle and then toward the sidewalk on Officer B's left side.

A review of BWV determined that as Officer B arrived at the front of the gray vehicle, the driver's door to the Infiniti opened and the Subject began to exit. As the Subject did so, Officer A ran past Officer B, toward the Infiniti, with his/her pistol unholstered.

The Subject was then seen momentarily crouching and turning toward the driver's compartment of the Infiniti before he turned back toward the officers. At this point the Subject's right hand could be seen held away from his body at waist level, but the contents of his hand are unclear. Officer A then stopped suddenly, and two gunshots were heard in close succession. Simultaneously, a bullet is seen impacting the driveway directly behind the Infiniti. The Subject then turned away from the officers and ran east to the back of the apartment building adjacent to the driveway, out of view.

The following is an account of the OIS from Officer B's perspective:

Officer B indicated that when he/she shined his/her light on the Infiniti, he/she observed a male in the driver's seat who appeared to be rushing to collect his belongings as if preparing to exit the vehicle. Simultaneously, Officer B heard and observed Officer A moving forward on his/her left side. In response, Officer B raised his/her left arm and said, "Stop, stop, stop" in an effort to prevent Officer A from getting between him/her and the Subject. Officer B then observed Officer A continue forward and heard him/her say, "Stop, let me see your hands."

After the Subject exited, Officer B observed that the Subject's hands were held near his waistband, and he was pointing a dark colored pistol toward him/her and Officer A. Immediately after, Officer B heard a gunshot and observed a bullet ricochet off the driveway in front of him/her. Officer B believed that the round was fired by the Subject, and in response, he/she unholstered his/her pistol. Officer B then heard a second gunshot that he/she believed was fired by Officer A. After hearing the second gunshot, Officer B observed the Subject turn south and run to the rear of the apartment building and then turn east out of his/her sight.

The following is an account of the OIS from Officer A's perspective:

Officer A indicated that while driving east, he/she heard Officer B say, "Hey, that's the car."

Officer A did not activate his/her BWV upon the officers locating the Subject's vehicle in the driveway until after the OIS. Officer A stated, "Yes. So when we had come to a stop, I noticed my partner immediately exit the vehicle right around the time I would have normally activated my body-worn camera and just the whole officer safety portion of things kind of took precedent and I -- it just fell out of my mind. My focus at that point was get out of the car, get to your partner."

In response, Officer A stopped their police vehicle, activated the rear amber lights, and exited. Officer A moved to the rear of his/her police vehicle, then south toward the driveway. As he/she did so, Officer A unholstered his/her pistol. According to Officer A, he/she did not know if the Infiniti was occupied, but from the rear of his/her police vehicle, he/she could see Officer B using a parked vehicle for cover. As such, he/she moved toward a Jeep parked in the driveway so that he/she could seek an independent

source of cover and use that position to triangulate on the Infiniti with Officer B. The investigation determined that Officer A did not use the Jeep for cover at the time of the OIS; he/she moved out into the open, in front of Officer B.

As Officer A approached the Jeep, he/she observed the driver's door to the Infiniti open and the Subject exit. The Subject was initially facing the Infiniti before he pivoted to his left, away from the officers, as if he was going to flee. Officer A then observed the Subject turn back toward the Infiniti and bend over into the driver's compartment while simultaneously reaching toward the floorboard area. According to Officer A, this movement caused him/her to believe that the Subject was attempting to retrieve a weapon. Officer A recalled telling the Subject, "Stop! Stop!" before he/she observed the Subject bring his right arm out of the Infiniti and turn toward him/her and Officer B while holding a dark colored semiautomatic pistol in his right hand. In response, Officer A fired two rounds at the Subject. Officer A observed the Subject drop briefly to his knees before he got up and ran to the rear of the apartment building and out of his/her view.

The investigation determined that Officer A activated his/her BWV camera approximately 10 seconds after the OIS. As such, his/her camera recorded video footage of the event without audio. Audio from this portion of the event was recorded on Officer B's BWV camera. Immediately before the OIS, it was Officer B (not Officer A) who could be heard saying, "Stop! Stop!"

The following is an account of the OIS from the Subject's perspective:

The Subject told investigators that he left his warehouse job at on the day of the incident. While driving he was pulled over by the police. The officers directed him to lower his windows and exit his vehicle, but instead he "pulled off to go home." The Subject parked his vehicle in the driveway at his residence before he observed the officers pull up on the street behind him. After exiting the Infiniti, the Subject heard one of the officers yell, "Freeze [expletive]!" Immediately after, he reached into the car to retrieve his keys from the driver's seat. As he did so, one of the officers shot at him. In response, the Subject ran to his apartment and called for his mother to open the door.

Audio from this portion of the event was recorded on Officer B's BWV camera. Immediately before the OIS, Officer A is heard yelling, "Get your [expletive] hands up! Hands up!"

Post-OIS and Arrest Activities:

After the OIS, the officers briefly paused near the Infiniti before continuing south and east toward the rear of the building. Officer A was in front of Officer B, who followed behind and broadcast, "Officer needs help. Shots fired." Upon reaching the rear of the building, Officer A told Officer B that he/she observed the Subject enter an apartment. In response, Officer B directed Officer A to move back to the west side of the building for cover while he/she broadcast additional information.

Immediately after the OIS, Officer B said, "Chill, chill, chill." Moments later after the officers redeployed to the rear of the apartment building, Officer B said, "Hold up, partner, chill, hold it." When later interviewed, Officer B stated, "I just, um, I wanted to slow everything down, um, simply because, um, by then I had already knew that my partner had at least shot once, too. Um, and I know that could be a very, like, stressful, scary situation. Um, so I wanted to make sure that he/she was going to, like, remain calm, remain cool and be able to just kind of stick it out until we got additional resources and not have him/her continue after the suspect. Um, when I said 'chill' I just meant, like, hey, calm down, like, we're okay. Are you okay? Um, get behind cover. Let's not pursue any further simply because we -- we don't know who's in there. We don't know where he went and we'll just stand by. Um, and I also did it in a -- like in a -- in an attempt to just not escalate further than what we had already, um, like, been through at that time."

Officer A redeployed back to the southwest corner of the apartment building before moving behind the engine block of an adjacent sport utility vehicle (SUV). He/she was ultimately joined by Officer C, who was equipped with a shotgun, and by Officers D and E.

Approximately seven minutes after the OIS, Sergeant A arrived at the driveway area and received a briefing from Officer B. Officer B told Sergeant A that he/she and Officer A had previously observed the Subject speeding and they conducted a traffic stop. Officer B advised that the Subject fled the stop, and while checking the area, they located his Infiniti in the driveway of the apartment building. Officer B then told Sergeant A that after exiting their police vehicle, the Subject exited his Infiniti with a pistol and fired one round before fleeing on foot.

As described by Officer A, "Met with the sergeant. At first I don't think [he/she] knew that we were involved in an officer involved shooting or that we had shot. I believe there was information that it came out that the suspect had possibly shot at us, so I'm not sure if that was maybe, like, a source of confusion."

During their conversation, Officer B did not tell Sergeant A that Officer A had fired his/her pistol. Officer B explained to investigators, "Um, I think because I was the person involved and my -- and I was with my partner and it was just us at the time, um, I believe that everybody had understood that there was an OIS because of my broadcast. I had mentioned officer needs help. Shots fired."

According to Officer A, "I mean, I assumed that [Sergeant A] had already knew. I mean, my partner put out the broadcast officer needs help, shots fired and generally what that indicates is that an officer involved shooting has occurred. So I didn't feel that either of us needed to advise him/her of that because I thought he/she -- I thought he/she already knew."

According to Sergeant A he/she was initially unaware that there had been an OIS. After speaking with Officer B, Sergeant A believed that his/her “Officer needs help, Shots fired” broadcast was made because the Subject fired at officers before barricading himself in the apartment building. As such, Sergeant A did not perceive a need to separate and monitor Officers A and B. Sergeant A proceeded as if the incident was a standard barricade, and his/her primary focus was establishing containment and ensuring the safe positioning of his/her officers.

After containment was established around the building, Officer B performed a brief search of the Infiniti’s passenger compartment and located an identification card with the Subject’s name and picture. Officer B passed this information to other officers on the perimeter, who ultimately used it to call the Subject out of his residence with the assistance of a public address system. An arrest team was established by Officer F and overseen by Sergeant A.

Approximately 45 minutes after the OIS, the Subject exited his/her residence and was directed into a prone position on the east side of the building. Shortly thereafter, the Subject was approached by the arrest team and handcuffed by Officers F and G without incident. The Subject was placed under arrest and transported for booking.

The investigation did not establish the presence of a firearm either in the Subject’s vehicle or apartment.

BWV and DICV Policy Compliance

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

Los Angeles Board of Police Commissioners’ (BOPC) Findings

The BOPC reviews each categorical use of force 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 Sergeant A’s tactics to warrant a Tactical Debrief and Officers A and B’s tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

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

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

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

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

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

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;

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

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

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

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

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

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

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

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

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

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

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be 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 subject.

Definitions

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

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

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

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

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test

of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

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

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

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

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

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

A. Tactics

Tactical De-Escalation Techniques

- Planning
- Assessment
- Time
- Redeployment and/or Containment
- Other Resources
- Lines of Communication (Los Angeles Police Department, Use of Force - Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016).

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.

Tactics

- *Department policy relative to a Tactical Debrief is: “The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could be improved. The intent of a Tactical Debrief is to enhance future performance by reviewing and analyzing Department-wide training, practices, policies and procedures.”*

Department policy relative to Administrative Disapproval is: “A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training” (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation

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

Tactical de-escalation does not require that an officer compromise his/her or 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.

*Tactical De-Escalation Techniques: **Planning, Assessment, Time, Redeployment and/or Containment, Other Resources, and Lines of Communication.***

Planning – This was Officers A and B’s second watch together as partners. The officers had discussed basic tactical concepts, including contact and cover officer responsibilities, pedestrian stops, and vehicle stops. Observing the Subject commit multiple violations, the officers initiated a traffic stop. When the Subject fled, Officers A and B decided not to initiate a vehicle pursuit. The officers did choose to follow the Subject’s path of travel; however, the Use of Force Review Board (UOFRB) noted that they did not develop a plan if they located his vehicle.

Assessment – Observing the Subject’s vehicle, Officers A and B assessed that he was traveling at a high rate of speed and that he failed to stop for the red phase of a tri-light. Before stopping the Subject for the violations, Officer B queried the Infiniti’s license plate via the MDC. After stopping the Subject, Officers A and B observed

that the Infiniti's rear windows were tinted and rolled up, preventing them from clearing the vehicle's rear seats. The Subject failed to comply with the officers' direction to lower the rear windows, and he instead fled. Based on the Department's vehicle pursuit policy, Officers A and B determined that they could not pursue the Subject.

Later, locating a silver Infiniti parked at an apartment complex, Officer B directed Officer A to stop their police vehicle so that he/she could exit and confirm the license plate. According to Officer B, when he/she shined his/her light on the Infiniti, he/she observed a male in the driver's seat who appeared to be rushing to collect his belongings as if preparing to exit the vehicle. Simultaneously, Officer B heard and observed Officer A moving forward on his/her left side. In response, Officer B raised his/her left arm and said, "Stop. stop, stop!" to prevent Officer A from getting between him/her and the Subject. Officer B then observed Officer A continue forward and heard him/her say, "Stop, let me see your hands."

According to Officer B, after the Subject exited the Infiniti, he/she observed that his hands were near his waistband, and he was pointing a dark-colored pistol toward him/her and Officer A. Immediately after, Officer B heard a gunshot and observed a bullet ricochet off the driveway in front of him/her. Officer B believed that the round was fired by the Subject. Officer B then heard a second gunshot that he/she believed was fired by Officer A.

According to Officer A, before the OIS, he/she had observed the Subject turn back toward the Infiniti and bend over into the driver's compartment while simultaneously reaching toward the floorboard area. This movement caused Officer A to believe that the Subject was attempting to retrieve a weapon. Officer A observed the Subject bring his right arm out of the Infiniti and turn toward him/her and Officer B while holding a dark-colored semiautomatic pistol in his right hand, at which point the OIS occurred. After the OIS, the officers assessed the need for additional resources.

Time and Redeployment/Containment – After stopping the Subject, Officers A and B maintained their distance from his vehicle while directing him to lower his rear windows. The Subject failed to comply and fled the scene. After locating the Subject's vehicle, they exited their police vehicle and approached the Infiniti on foot. As they approached the Infiniti, the driver's door opened, and the Subject emerged. According to Officer B, he/she had planned to use a parked vehicle as cover while attempting to verify the license plate. According to Officer A, he/she did not know if the Infiniti was occupied, but he/she could see Officer B using a parked vehicle for cover. To seek an independent source of cover and a position to triangulate on the Infiniti with Officer B, Officer A moved toward a Jeep parked in the driveway. However, the UOFRB noted that based on the BWV footage, Officer A did not use the Jeep for cover as he/she moved toward the Subject.

After the OIS, the officers briefly paused before continuing south and east toward the rear of the building. Officer A was in front of Officer B, who followed behind and broadcast, "Officer needs help! Shots fired!" Upon reaching the rear of the apartment building, Officer A told Officer B that the Subject had entered an apartment. In response, Officer B directed Officer A to move back to the west side of the building for cover while he/she broadcast additional information. Officer A redeployed to the southwest corner of the apartment building before moving behind an adjacent SUV. The officers then waited for additional units to arrive and contain the building. The Subject subsequently surrendered and was apprehended without further incident.

Other Resources and Lines of Communication – When Officer A instructed the Subject to lower the rear windows, the Subject said that his windows were already down. Officer A then directed the Subject to also lower his rear windows. The Subject ignored the command and fled in his vehicle. Although both officers determined they could not pursue the Subject, they did not completely disengage and began to follow his suspected path of travel, traversing the red phase of a tri-light. The UOFRB noted that while Officers A and B had sufficient time to advise CD of what had occurred, as well as a description of the Subject's vehicle and a direction of travel, they did not do so.

After locating the Subject's Infiniti, Officers A and B approached it on foot; however, they did not advise CD of their location or their observations. Officer B observed the Subject sitting in the driver's seat shuffling through his belongings, but Officer B did not advise his/her partner of his/her observations. Officer A observed the Subject exit the Infiniti and reach down towards the floorboard of the driver's seat, which led him/her to believe that the Subject could be armed; however, he/she did not communicate his/her observations to Officer B.

Observing his/her partner moving toward the Infiniti, Officer B raised his/her left arm and said, "Stop, stop, stop!" However, Officer A continued forward, stating, "Stop, let me see your hands!" The OIS then occurred. At the time of the OIS, Officer A was holding a small flashlight, and his/her pistol was equipped with a weapon-mounted light; however, neither light was activated.

Immediately after the OIS, Officer B said, "Chill, chill, chill." to his/her partner. Officer B then requested additional resources by advising CD that shots had been fired and officers need help. After moving to the rear of the apartment building, Officer B also said, "Hold up, partner, chill, hold it." According to Officer B, he/she wanted to slow the incident down and wait for additional resources. Officer B then directed his/her partner to cover and subsequently relayed information to responding units to contain the Subject.

After containment was established around the building, Officer B briefly searched the Infiniti's passenger compartment and located an identification card with the Subject's

name and picture. Officer B passed this information on to other officers on the perimeter, who ultimately used it to call the Subject out of his residence with the assistance of a public address system.

The BOPC considered that the UOFRB noted several deficiencies with the officers' use of de-escalation techniques, specifically their lack of planning and communication (with each other and CD) before the OIS. The UOFRB also noted that before the OIS, the officers failed to request additional resources. The UOFRB opined that when they located the Subject's vehicle, the officers should have requested additional units. The UOFRB further noted that the officers failed to use distance and cover to create time. As noted in Debriefing Point No. 2, the UOFRB believed that the officers should have positioned their police vehicle to use it as cover while verifying that they had located the Subject. Based on the BWV footage, it appears that officers could have accessed the driveway with their vehicle. Additionally, while Officer B had some cover from a Toyota parked nearby, Officer A was completely exposed as he/she ran toward the Subject, as he emerged from his Infiniti. Instead, Officer A should have moved in a controlled manner and used the rear of the Jeep as cover while assessing what the Subject was holding. As it pertains to their post-OIS actions, the UOFRB noted that Officer B directed Officer A to use cover while he/she broadcast additional information. However, the UOFRB would have preferred that the officers had not pursued the Subject and stood in the courtyard while determining his location.

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

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

Debriefing Point No. 1 - Updating Location/Code Six

After locating the Infiniti in the driveway, Officers A and B did not advise CD of their location. According to Officer B, he/she wanted to verify that it was the same vehicle from the traffic stop before doing so. After the OIS, Officer B advised CD that shots had been fired and provided their location.

The BOPC noted that the UOFRB assessed Officers A and B's adherence to the Department's Code Six policy. The UOFRB noted that although Officers A and B had placed themselves Code Six at the initiation of their traffic stop, neither officer broadcast their location upon locating the Subject's vehicle, a considerable distance from their original location. Instead, the officers chose to approach the vehicle first. Although the Subject subsequently emerged from his vehicle and the OIS occurred, the UOFRB opined that nothing prevented the officers from advising CD of their location before exiting their police vehicle and approaching the Infiniti.

The UOFRB noted that the purpose of the Code Six policy is for officers to advise CD of their location and activity type, should the incident necessitate the response of additional personnel. Based on the officers' response to the Subject's actions after the traffic stop, the UOFRB opined that they were attempting to locate him. As such, the UOFRB opined that when the officers located the Infiniti, they were attempting to contact the Subject who had fled from police and should have advised CD of their location before attempting to verify the vehicle. By not doing so, the UOFRB opined that Officers A and B placed themselves at a significant tactical disadvantage.

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

Debriefing Point No. 2 - Tactical Vehicle Deployment

According to Officer A, while driving east, he/she heard Officer B say, "Hey, that's the car." Officer B had observed the Infiniti parked in the driveway on the south side of the street and directed his/her partner to stop the car. In response, Officer A stopped their police vehicle along the north curb of the street, across from and perpendicular to the Infiniti. Both officers then exited their vehicle and approached the Infiniti on foot.

The BOPC noted that the UOFRB assessed the positioning of Officers A and B's police vehicle after locating the Infiniti. The UOFRB noted that instead of positioning their police vehicle behind the Infiniti, Officer A parked it across the street, perpendicularly to the Infiniti. The UOFRB noted that this position did not allow the officers to use their police vehicle as cover while confirming that they had located the Infiniti or when the Subject emerged from it. The UOFRB also noted that the position did not allow the officers to use their vehicle's lighting equipment to illuminate the Infiniti. As such, the UOFRB opined that the officers placed themselves at a significant tactical disadvantage. The UOFRB opined that this was compounded by the fact that the officers had not been able to verify the number of occupants in the Infiniti before it fled, and they did not initially know if it was occupied when they located it.

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

Debriefing Point No. 3 - Passing Unsearched Vehicle

After the OIS, the Subject fled from the Infiniti and ran behind the apartment building. Officers A and B paused and then moved past the Infiniti while pursuing the Subject. According to Officer B, as he/she moved past the Infiniti, he/she took a "short

glimpse” to ensure that no one was in the Infiniti. Realizing that the Subject had entered an apartment, Officers A and B redeployed.

The BOPC noted that the UOFRB assessed Officers A and B’s decision to pass an unsearched vehicle while pursuing the Subject. As previously mentioned, the UOFRB noted that the officers had not been able to verify the number of occupants in the Infiniti before it fled. (Unable to see through the window tint, the officers had asked the Subject to lower his rear windows, but he refused.) The UOFRB also noted that the officers had temporarily lost sight of the Infiniti as they followed its path of travel to the apartment building. As such, the UOFRB opined that the officers would not have known if the Subject was the sole occupant when he fled on foot. Additionally, while Officer B stated that he/she took a “short glimpse” to ensure that no one was in the Infiniti, he/she indicated this occurred after he/she passed it. Per the BWV footage, after directing his/her partner to cover, Officer B returned to the Infiniti and appeared to look inside as he/she illuminated the passenger compartment with his/her flashlight. Based on the available evidence, the UOFRB opined that the officers’ actions placed them at a significant tactical advantage and unnecessarily compromised their safety.

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

Additional Tactical Debriefing Points

Situational Awareness – As Officer D arrived at the scene and approached Officer B, he/she motioned toward the target location with his/her right hand while holding his/her pistol in the same hand. Although the available evidence indicates that he/she did not cover the officers with his/her muzzle, he/she should have used solely his/her left hand to direct them.

Profanity – While ordering the Subject to raise his hands, Officer A used profanity. Although the officer’s use of profanity was not excessive or personal and was intended to gain compliance, it is not best practice.

Ballistic Helmet – While searching for the Subject who was believed to be armed with a pistol, Sergeant A did not don his/her ballistic helmet as he/she should have.

Shotgun Manipulation – Based on BWV footage, Officer D unintentionally disengaged the safety of his/her shotgun. Although it remained disengaged for approximately one minute and thirty-two seconds before he/she re-engaged it, his/her finger remained on the safety during all applicable times.

Warrantless Search – After the Subject surrendered, Sergeant A directed a team of officers to ensure that there were no additional suspects or victims inside the

Subject's apartment. While doing so, officers entered his apartment and conducted a brief/limited search of the premises to locate potential victims and/or suspects and to protect the safety of the officers on the scene. Generally, warrantless searches into areas beyond those immediately adjoining the arrest location must be based on articulable facts that there may be someone there who poses a danger to the officers. Concerning additional victims, a warrantless search may be permissible if the circumstances would cause a reasonable person to believe that entry was necessary to prevent physical harm to other persons.

Incident Commander (IC) Declaration – Sergeant A did not declare himself/herself as the IC during this incident as he/she should have; however, there was no confusion as to who was in command.

Command and Control

- Approximately seven minutes after the OIS, Sergeant A arrived at the scene and received a briefing from Officer B. Officer B told Sergeant A that he/she and Officer A had stopped the Subject for speeding and that he/she fled the scene. He/she also advised that while checking the area, they located the Subject's Infiniti in the driveway of the apartment building. Officer B then told Sergeant A that after exiting their police vehicle, the Subject exited his Infiniti with a pistol and fired one round before fleeing on foot. During their conversation, Officer B did not tell Sergeant A that Officer A fired his/her pistol.

According to Sergeant A, he/she was initially unaware that there had been an OIS. After speaking with Officer B, Sergeant A believed that his/her shots fired broadcast was based on the Subject firing at officers before barricading himself in the apartment building. Believing the incident was an "assault with deadly weapon on a peace officer," Sergeant A did not perceive a need to separate and monitor Officers A and B, and he/she proceeded as if the incident were a barricaded suspect, focusing on containment and the safe positioning of his/her officers.

Sergeant A telephonically briefed Sergeant B and explained that it was not an OIS. Overhearing the conversation, Officer B advised Sergeant A that it was an OIS; Officer A subsequently confirmed that he/she had discharged his/her pistol. Learning that an OIS had occurred, Sergeant A requested additional supervisors to assist him/her with managing the scene. Sergeant A intended to obtain public safety statements (PSS) from Officers A and B at that point, but he/she did not have the PSS paperwork with him/her. Regardless, Sergeant A admonished both officers not to discuss the incident.

With containment established, Sergeant A directed Officer F to formulate an arrest team in the event the Subject exited the location. Sergeant A then returned to Officers A and B and directed them to turn off their BWV cameras. While attempting to gather a PSS from both officers, the air unit advised that the Subject was exiting

the apartment. In response, Sergeant A provided them with an additional order not to discuss the incident and left to supervise the arrest team. Sergeant A oversaw the Subject's arrest and a warrantless search of his apartment. During this time, he/she believed that he/she was away from the officers for approximately 10 to 15 minutes. When Sergeant A returned, Officers A and B were being monitored by Sergeant C.

According to Sergeant B, he/she was initially unclear whether the incident involved officers hearing shots or an OIS. Because Sergeant B knew that Sergeant A was the only supervisor in the field, he/she allowed him/her time to obtain situational awareness before contacting him/her. Approximately 15 minutes into the incident, Sergeant B attempted to verify if an OIS had occurred, but his/her request was interrupted by radio traffic.

After being advised that an OIS had occurred, Sergeant B directed Sergeant A to separate the involved officers and remove their BWV cameras. Sergeant B also requested the response of additional supervisors to the scene and notified Captain A of the incident. At approximately 01:25:00 hours, Sergeant B notified the DOC of this incident.

The investigation determined that Officers A and B were briefly monitored by Officers G and H while Sergeant A oversaw the Subject's arrest. According to Officer G, Sergeant A asked him/her to monitor the primary officers because there were no other supervisors at the scene.

After arriving at the scene, Sergeant C observed Officer G monitoring Officers A and B. Sergeant C also observed that the Subject was handcuffed, and that Sergeant A was supervising a team of officers on the east side of the apartment building. While speaking with Officer G, Sergeant C learned that a command post (CP) had not yet been established. In response, Sergeant C prioritized establishing a CP. Shortly thereafter, he/she was joined by Sergeants D and E. Upon his/her arrival, Sergeant E began writing pertinent information on a dry-erase board, while Sergeant D assumed responsibility for monitoring Officer B. Sergeant C assumed responsibility for monitoring Officer A.

Although Sergeant A was not initially informed that an OIS had occurred, based on the perceived nature of the incident, specifically a barricaded suspect with shots fired, the UOFRB would have preferred that he/she had requested additional supervisors sooner. The UOFRB determined that issues regarding Sergeant A's command and control were best addressed via the Tactical Debrief.

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

B. Drawing/Exhibiting

- **Officer A**

First Occurrence - According to Officer A, he/she unholstered his/her pistol after locating the Subject's vehicle. Because the Subject had previously fled from him/her, Officer A believed that the Subject may have been armed or wanted and that he/she could have been met with violent resistance.

Second Occurrence - According to Officer A, he/she unholstered his/her pistol a second time because Officer D was moving his/her police vehicle to a different location. This caused Officer A to believe that no one else was providing coverage on the northwest corner of the apartment building, so he/she fulfilled that role until he/she was relieved.

Third Occurrence - While escorting Sergeant A to an intersection, Officer A unholstered his/her pistol a third time, as observed in Sergeant A's BWV footage. Although Officer A did not recall this occurrence, he/she attributed it to having seen the Subject armed with a pistol.

- **Officer B**

First Occurrence (pistol) - According to Officer B, after the Subject exited his vehicle, he/she observed that his hands were held near his waistband, and he was pointing a dark-colored pistol toward him/her and Officer A. Immediately after, Officer B heard a gunshot and observed a bullet ricochet off the driveway in front of him/her. Officer B believed that the round was fired by the Subject. Officer B then heard a second gunshot that he/she believed was fired by Officer A. Then Officer B observed the Subject run to the rear of the apartment building out of his/her sight. Having heard the gunshots and being unsure of the Subject's location, he/she unholstered his/her pistol.

Second Occurrence (shotgun) - According to Officer B, he/she returned to his/her police vehicle and retrieved his/her shotgun. He/she did so because the Subject had seemingly fired a round and he/she believed it would be beneficial if officers needed to conduct an apartment search after locating the unit he fled into.

Third Occurrence (pistol) - Officer H's BWV footage depicted Officer B unholstering his/her pistol while walking toward the front of the apartment building. Although Officer B did not recall this specific occurrence, investigators confirmed that he/she unholstered his/her pistol multiple times throughout the incident because he/she knew that the Subject was still armed and in the area.

Fourth Occurrence (pistol) - According to Officer B, he/she unholstered his/her pistol because he/she joined the team of officers who were approaching the Subject

after he exited his apartment; Officer B believed that he could be armed. Although he/she believed this was the second time he/she unholstered his/her service pistol, it was the third.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their firearms. As it pertains to Officer A, the UOFRB noted that based on the Subject's actions, he/she believed that the Subject was either armed or a wanted person and that he/she could have been met with violent resistance. Regarding Officer A's second occurrence, the UOFRB noted that Officer A acted as a cover officer while additional officers repositioned their police vehicle to a different area of the apartment building. Concerning Officer A's third occurrence, while he/she did not remember this occurrence, the UOFRB noted that he/she was functioning as a cover officer while escorting Sergeant A to an intersection. Based on the available evidence, the UOFRB opined that his/her drawing and exhibiting conformed to policy.

Regarding Officer B, the UOFRB noted that he/she unholstered his/her pistol after hearing gunshots and losing sight of the Subject. As it pertains to Officer B's second occurrence, the UOFRB noted that Officer B retrieved his/her shotgun because he/she believed it would benefit officers, should they search the Subject's apartment. As it concerns Officer B's third occurrence, the UOFRB noted that at the time, the Subject was at large, and he/she believed he was armed. Regarding Officer B's fourth occurrence, the UOFRB noted he/she unholstered his/her pistol as he/she joined the team of officers that were approaching the Subject after he exited his apartment; he/she believed that the Subject could be armed. Based on the available evidence, the UOFRB opined that his/her drawing and exhibiting conformed to policy.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A and B, would reasonably believe 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 and B's drawing/exhibiting to be In Policy.

C. Lethal Use of Force

- **Officer A (Pistol 2 rounds)**

Round One

According to Officer A, as he/she approached the Jeep, he/she observed the Infiniti's driver's door open and the Subject exit. The Subject was initially facing the Infiniti before he pivoted to his left, away from the officers, as if he was going to flee. Officer A then observed the Subject turn back toward the Infiniti and bend over into the driver's compartment while simultaneously reaching toward the floorboard area. According to Officer A, this movement caused him/her to believe that the Subject was attempting to retrieve a weapon. Officer A recalled telling the Subject, "Stop!

Stop!” before he/she observed the Subject bring his right arm out of the Infiniti and turn toward him/her and Officer B while holding a dark-colored semiautomatic pistol in his right hand. In response, Officer A fired his/her first round at the Subject. The investigation determined that Officer A’s first round struck the driveway immediately north of the Infiniti and then ricocheted into the rear bumper where it came to rest.

Round Two

According to Officer A, after assessing his/her first round, the Subject remained standing and continued facing toward Officer A with the pistol still pointing at him/her. In response, Officer A discharged his/her second round. Officer A observed the Subject drop briefly to his knees before he got up and ran to the rear of the apartment building and out of his/her view. The investigation determined that Officer A’s second round struck the Infiniti’s roofline and continued into an unoccupied garage.

The BOPC noted that the UOFRB assessed Officer A’s lethal use of force; however, it were not unanimous in their findings. As it pertains to the UOFRB Majority, they noted that the Subject had refused to lower his rear windows and fled the scene at a high rate of speed. This led Officer A to believe that the Subject was either wanted or possibly armed and that he may violently resist.

Locating the Infiniti, Officer A observed the Subject exit it and reach toward the floorboard. The Majority noted that this movement caused Officer A to believe that the Subject was attempting to retrieve a weapon. The UOFRB also noted that suspects often leave weapons underneath their seats for ease of access.

The Majority noted that according to Officer A, he/she observed the Subject bring his right arm out of the Infiniti and turn toward him/her and Officer B while holding a dark-colored semiautomatic pistol in his right hand. While it was subsequently determined that the Subject was unarmed at the time of the OIS, the Majority noted that he/she and the officers were in a low-light environment without the use of supplemental lighting. The Majority also noted that Officer A was forced to make a split-second decision to defend against what he/she perceived to be an imminent lethal threat. Additionally, the Majority noted that Officer B also believed that the Subject was armed with a pistol. Although Officer B did not communicate his/her belief to Officer A, the Majority believed that this spoke to whether an officer in the same situation would have believed the Subject was armed. The Majority further noted that Officers A and B both believed that the Subject was still armed when he fled. As such, the Majority determined that Officer A’s lethal use of force was proportional, objectively reasonable, and necessary.

The UOFRB Minority disagreed with the Majority’s opinion. The Minority noted that while Officer A believed the Subject was either wanted or possibly armed and may violently resist, upon locating the Infiniti, he/she parked across the street and approached the vehicle on foot. The UOFRB also noted that neither he/she nor

his/her partner advised CD of their location or requested additional units before the OIS. Despite his/her stated belief that the Subject was possibly armed and may violently resist, Officer A failed to use cover as he/she ran past his/her partner and he/she closed the distance to the Subject. The UOFRB also noted that Officer A continued to move forward without cover after observing the Subject reach toward the floorboard, a movement which caused him/her to believe the Subject was attempting to retrieve a weapon. The Minority felt that Officer A's tactics were inconsistent with his/her stated beliefs and that they limited the time he/she had to de-escalate the incident. The Minority opined that a controlled pace and the use of cover and distance would have allowed Officer A time to further assess what the Subject was holding and may have prevented lethal use of force. As such, the Minority believed that Officer A's actions unnecessarily placed him/her in a position where he/she believed that lethal force was necessary and significantly contributed to his/her decision to discharge two rounds from his/her pistol. Additionally, the Minority opined that the available evidence did not support Officer A's belief that the Subject was armed with a pistol. Thus, the Minority determined that Officer A's lethal use of force was not proportional, objectively reasonable, or necessary.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, would not reasonably believe that the lethal use of force was proportional, objectively reasonable, or necessary. Therefore, the BOPC found Officer A's lethal use of force to be Out of Policy.