

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

OFFICER-INVOLVED SHOOTING – 049-22

Division **Date** **Duty-On (X) Off () Uniform-Yes (X) No ()**

Southeast 9/22/22

Officer(s) Involved in Use of Force **Length of Service**

Officer A 5 years, 10 months

Reason for Police Contact

On September 22, 2022, at approximately 2222 hours, officers were patrolling when they observed what they believed was a felony warrant suspect (the Subject) riding a bicycle. As the officers attempted to detain the Subject, he dropped the bicycle and fled on foot. At one point during the foot pursuit, the Subject removed a pistol from his fanny pack and armed himself. The Subject fired a round from his pistol, which resulted in an officer-involved shooting (OIS). After the OIS, the Subject entered a closed business and barricaded himself inside a building. Metropolitan Division officers responded, located the Subject, and utilized gas to extract him from the building, where he was taken into custody without further incident. The Subject had been struck by gunfire during the OIS and was transported by Rescue Ambulance (RA) to a local hospital where he was treated and released.

Subject **Deceased ()** **Wounded (X)** **Non-Hit ()**

Male, 37 years of age.

Board of Police Commissioners' Review

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

The following incident was adjudicated by the BOPC on 8/29/23.

Incident Summary

On September 18, 2022, Officer B responded to a “shots fired” radio call. The suspect was identified in this incident, but not located. An assault with a deadly weapon (ADW) with a firearm Investigative Report (IR) was completed. On September 20, 2022, a crime alert flyer with a named suspect was disseminated to Southeast Division patrol officers.

On Thursday, September 22, 2022, Officers A, driver, and B, passenger, were assigned to a patrol unit. The officers were equipped with body-worn video (BWV) cameras and driving a marked black and white vehicle equipped with a digital in-car video (DICV) camera.

According to Officer B, he/she has worked with Officer A previously and has discussed tactics, which include contact/cover roles as well as foot-pursuit tactics and the importance of containment mode, especially when pursuing an armed suspect.

According to Officer A, he/she has been partnered with Officer B approximately three to five times in the past. He/she explained they have discussed tactics, which include contact/cover roles.

At approximately 2220:50 hours, the officers were driving east, passing an intersection, when Officer B observed a person (the Subject) whom he/she believed to be the felony warrant suspect wanted on the crime alert flyer. The possible suspect was wearing a dark hoodie or hat and riding a bicycle east in the number two lane, east of the intersection. Officer B communicated with his partner, “That’s him, that’s him.” According to Officer B, the Subject appeared to be nervous as he turned north and conducted a dangerous maneuver across three lanes of traffic.

The officers did not activate their DICV or broadcast their Code 6 (on scene) location.

According to Officer B, he/she communicated with his/her partner that the Subject had “doubled back” and was now behind the police vehicle, continuing toward the north sidewalk. Officer A conducted a U-turn and was now traveling west. At 2221:03 hours, on Officer B’s BWV, the passenger door can be seen slightly open prior to the police vehicle coming to a complete stop.

At 2221:15 hours, Officer B exited the police vehicle and ran north in foot pursuit of the Subject. Officer B advised that he/she was in containment mode. On Officer A’s BWV he/she is seen shifting the police vehicle into park and removing the keys before exiting at 2221:16 hours.

According to Officer A, even though he/she began the foot pursuit behind Officer B, both officers have discussed that Officer A was a faster runner and would eventually run ahead of Officer B.

According to Officer B's BWV, the Subject ran north and then turned west. At this point, Officer B was ahead of Officer A. The Subject ran past a building and turned north, parallel to a parking lot.

At 2221:30 hours, Officer A activated his/her BWV as he/she ran past Officer B. Shortly after, Officer A unholstered his/her pistol and utilized the tactical flashlight mounted on his/her duty pistol to illuminate the Subject as he continued to run north. Officer A gave the Subject multiple commands to stop.

At 2221:40 hours, Officer B broadcast that he/she and his/her partner were in a foot pursuit.

At 2221:45 hours, the Subject ran slightly east and turned north. Officer A observed the Subject remove a blue "fanny pack" type bag from a backpack he was wearing. Officer A described the Subject running slower with his hands in front of him, chest high, as he manipulated the fanny pack. The Subject then dropped the fanny pack onto the street. According to Officer A, he/she observed the Subject remove an unknown object from the fanny pack. Officer A believed that he/she heard the Subject say, "I got a gun!" Officer A did not communicate with his/her partner what he/she heard, and he/she was not sure if he/she heard the statement. According to Officer A, believing that the Subject was armed, he/she followed him in containment mode.

At 2221:58 hours, Officer B picked up the fanny pack that was dropped by the Subject. According to Officer B, he/she observed the Subject drop the fanny pack in the middle of the street. It was Officer B's experience that ADW suspects carry contraband or firearms in fanny packs. He/she also stated he/she felt that if he/she did not pick up the fanny pack, it would pose a threat to the youth of the community and to preserve evidence that he/she believed the Subject was discarding.

As the Subject ran west around the north end of a building, Officer A stepped in a hole and fell to the ground. Officer A was holding his/her pistol in his/her right hand when he/she fell and he/she stated he/she maintained control of his/her pistol, was aware of his/her muzzle direction and made sure his/her finger remained off the trigger.

Officer A immediately stood up and continued running. The Subject ran south on the west side of the building toward the parking lot. The Subject ran west around a fence at the north end of the parking lot. At this point, Officer A lost sight of the Subject.

According to Officer A, he/she believed the Subject had shot at him/her. Officer A described going from a one-handed to two-handed grip of his/her pistol as he/she approached the corner.

According to Officer B, he/she observed what he/she believed was Officer A pieing the corner of a fence the Subject had run around when he/she heard the first gunshot.

Officer A described seeing the Subject with his left arm extended up, with his left hand on the Conex box (8'x8'x20' shipping container) and his right hand holding a pistol under his left armpit, with the barrel of the pistol pointed at him/her. Officer A believed that the Subject was attempting to shoot at him/her again.

According to Officer A, he/she believed that the Subject had fired a shot to kill him/her and was now waiting to ambush the officers. Officer A described utilizing a two-handed grip on his/her pistol as he/she aimed at the Subject's center body mass from approximately 20 feet and fired his/her first round.

Officer A was not sure if the first round struck the Subject. According to Officer A, he/she remained in the same position as the Subject continued pointing his pistol at him/her. According to surveillance footage, the Subject appeared to move west toward the alley after Officer A's first round was fired. Officer A targeted the Subject's center body mass as he/she fired a second round.

Officer A remained in the same position when he/she aimed at the Subject's center body mass and fired a third round. According to Officer A, after firing his/her third round, the Subject disappeared behind the Conex box.

At 2222:10 hours, Officer B broadcast a help call. As seen on Officer B's BWV, he/she walked toward Officer A, who was unholstered and pointing his/her pistol toward the west and standing behind the metal gate. Officer A directed Officer B to gain cover behind a parked vehicle.

At approximately 2223 hours, surveillance video showed the Subject hold his pistol in his mouth as he climbed the iron gate which separated the parking lot and the north/south alley. Once in the alleyway, the Subject removed his pants and shoes and ran south in the alley with the pistol back in his right hand. Officer B broadcast that the Subject was running south in the alley.

According to surveillance video, the Subject climbed a gate on the east side of the property, which was a locked access door that led to the north/south alley. The crime scene investigation determined that the Subject dropped his pistol at this time inside the locked gate area. Surveillance video from the same camera showed the Subject climbing a gate and entering an unlocked door on the southwest end of the complex, which led to the stairwell on the south end of the building. The Subject climbed the stairs to the fourth floor.

According to Witness A, at approximately 2227 hours, she received a phone call from her security guard, Witness B, stating that there was blood in the building. According to Witness A, she advised the Subject that she would call the paramedics, but he told her

not to call anyone. The Subject contacted two unidentified females, who gave him water and spoke with him briefly.

According to Witness B, she was able to guide the Subject back downstairs and out the front door. Witness B stated that when the Subject observed the police outside, he turned and exited out the southwest door.

At approximately 2225 hours, Sergeant A arrived in the vicinity. Sergeant A broadcast that he/she was Code 6, declared himself/herself as the incident commander (IC) and began attempting to locate the involved officers.

At approximately 2226 hours Lieutenant A and Sergeant B arrived at the command post (CP). As Sergeant B met with Sergeant A and Lieutenant A, they attempted to locate Officers A and B and determined their location.

Lieutenant A broadcast that he/she was the IC.

At approximately 2233 hours, Sergeants A, B and Lieutenant A located Officers A and B near the OIS scene. At this time, the incident remained tactical as the perimeter was still being established and the Subject was not in custody. Officers A and B were involved in relaying information to responding units as the Subject continued to move within the perimeter.

At approximately 2237 hours, the Subject exited the south door of the complex and climbed the south gate of the property and entered the recycling yard. The air unit broadcast that the Subject entered an open door to one of the buildings.

Sergeant B stated that while he/she waited to obtain the public safety statement (PSS), he/she began looking for evidence related to the OIS. According to Sergeant B, he/she felt that it was very important to locate and preserve the evidence.

At approximately 2253 hours, Officers A and B were separated by Lieutenant A and each officer was assigned a supervisor. Sergeant B was tasked with obtaining the PSS from and monitoring Officer A. Sergeant A was tasked with obtaining the PSS from and monitoring Officer B. Both officers' BWV cameras were secured and later handed over to FID investigators.

Metropolitan Division K9 officers arrived at approximately 2300 hours. At the time of their arrival, Officer C stated they were aware the Subject had been seen by the air unit climbing into the recycling yard and the perimeter was established and secured. According to Officer C, the plan was to secure any possible ways of escape and conduct multiple K9 warning announcements prior to searching.

At approximately 2313 hours, multiple announcements were made in English and Spanish utilizing the public address (PA) systems from police vehicles deployed on the west side and south side of the perimeter.

At approximately 2320 hours, Officer D and his/her K9 led a group of K9 officers north in the alley, along the east perimeter of the recycling yard. Officer D and his/her K9 were designated as the primary K9 unit. As seen on Officer E's BWV, the team approached the northeast corner of the recycling yard when they came upon a security door which led from the alley to an apartment complex. The door was locked, so Officer E utilized his/her collapsible baton to open the door from the inside. At 2321:15 hours, Officer E opened the door and announced, "Gun." According to Officer C, there appeared to be a trail of blood on the ground in the alley leading to the door and on the north facing metal fence of the recycling yard. Officers searched the north perimeter of the recycling yard as Officer C monitored the pistol on the ground.

A patrol unit recovered the pistol and secured it at the CP at the direction of Lieutenant A. According to Lieutenant A, due to the proximity of the pistol and where the Subject was last seen, he/she believed that the Subject could have access to it if he climbed the gate. Also, there was an officer safety issue to post officers to guard the pistol so close to the Subject's last known whereabouts.

The location of the pistol was documented by Officer C's BWV and recovered by Officer F and his/her partner, Officer G. According to Officer F, he/she and his/her partner walked from the CP to the alley where the pistol was located. At approximately 2328 hours, Officer F donned gloves, utilized his/her personal cell phone to take a photograph, and picked up the pistol. Officer F carried it back to his/her police vehicle and secured it in the rear compartment. According to Officer F, he/she did not manipulate the pistol.

At approximately 2335 hours, Metropolitan Division Special Weapons and Tactics (SWAT) Unit received a request to respond to the scene; and SWAT officers began arriving to the CP at approximately midnight.

According to SWAT Officer H, he/she was tasked as the team leader and was responsible for the tactics that would be utilized during the search for the Subject. Officer H was aware that the Subject was barricaded inside a building of a secured recycling yard and that the perimeter was secure. Officer H requested approval to deploy a drone, which would allow for real time layout of the recycling yard. Ultimately, all notifications were made, and deployment was approved. Officer I deployed the drone, and a plan to enter the property was developed. Officer D and his/her K9 assisted with the SWAT search as officers breached two gates before entering the area where the building was located. There were K9s on the property, which were secured by officers without incident.

As SWAT officers made their way through the property, primary Crisis Negotiation Team (CNT) Officer J was seated inside one of the SWAT armored vehicles. Officer J utilized the PA system to make multiple K9 announcements and to notify anyone who may have been inside the building of the presence of the police.

At 0149 hours, Officer H advised Lieutenant B that the exterior of the property had been cleared and a K9 alerted on the back door of the building indicating the Subject was barricaded inside. A SWAT armored vehicle was moved into position, which was approximately 55 feet south of the rear building. This afforded the SWAT officers additional cover and gave the CNT a position to communicate with the Subject inside the building.

At approximately 0153 hours, Officer J utilized the PA system and announced to anyone in the building to voluntarily come out and no harm would come to them. Officer J gave a K9 warning and warned that gas may be used if he did not surrender. There was no response from the Subject or anyone else who may have been in the building.

At 0201:40 hours, Officer K fired a single round from his/her 40mm less-lethal launcher (LLL) at the back door to obtain a response from the Subject. After the shot, Officer J attempted to communicate with the Subject, but again, he did not respond.

At approximately 0210 hours, a plan to deploy gas was approved by Commander A and SWAT officers began to don their gas masks.

At 0211:40 hours, from behind the cover of the SWAT Bearcat vehicle, Officer L fired two ferret (chemical gas nose/eye irritant) rounds into the west side of the building.

At 0211:48 hours, from behind the cover of the SWAT Bearcat, Officer M fired three ferret rounds into the east door of the building.

At 0216:52 hours, Officer N was deployed behind the front door of the SWAT Bearcat parked on the west side of the building. Officer N fired two ferret rounds into the building. Officer N then redeployed to the north side of the building and fired four additional rounds into the windows of the building which faced north.

At 0231:20 hours, a search team led by the K9 approached the rear door as the K9 alerted on the inner door of the building.

At approximately 0236:40 hours, Officer I deployed a robot, which is equipped with a loudspeaker, and utilized it to announce an additional use of force and K9 warning.

At 0237:39 hours, Officer O fired two ferret rounds into the upper portion of the restroom door. This caused the Subject to react and advise he would come out. Officer I continued to communicate with the Subject to come out with his hands up.

At approximately 0239 hours, the Subject exited the building appearing to have been affected by the gas deployment. The Subject was wearing a torn black shirt and boxer shorts and appeared to be bleeding from his left leg. The Subject walked out and was handcuffed by Officer P.

The Subject was escorted by Officer P to the awaiting Los Angeles Fire Department (LAFD) rescue ambulance (RA) with an apparent injury to his upper left leg. LAFD received an alarm to respond to the scene and stood by at the command post. At approximately 0240 hours, LAFD RA Paramedic/ Firefighters (PFFs) treated the Subject at scene for his injuries and then transported him to the medical center.

Officers Q, R, S, and T escorted the RA to the hospital. Officers Q and S rode in the ambulance and activated their BWV cameras.

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	Yes	No	No
Officer B	No	Yes	Yes	No	No

Los Angeles Board of Police Commissioners' (BOPC) Findings

The BOPC reviews each Categorical Use of Force (CUOF) incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: tactics of the involved officer(s), drawing/exhibiting of a firearm by any involved officer(s), and the use of force by any involved officer(s). Based on the BOPC's review of the incident, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

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

enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note: Because the application of deadly force is limited to the above 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, 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 Techniques

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

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

Planning, Assessment, and Lines of Communication – Officers A and B have previously worked together approximately five times and have had tactical discussions, including contact and cover roles and responsibilities, foot-pursuit tactics, and the importance of containment mode when pursuing an armed suspect.

On September 18, 2022, Officer B responded to a “shots fired” radio call, which resulted in the completion of an Investigative Report (IR) for a named ADW shooting suspect. Officer B recognized the suspect from a previous contact approximately three months prior. On the day of the OIS, Officer B discussed the ADW suspect description with Officer A and planned to provide extra patrol for the victimized family named on the IR.

Officers observed the ADW suspect (the Subject) riding his bicycle. Officers did not formulate a plan prior to detention. Officers did not appear to know their location, nor did they communicate pertinent information to CD or each other. Both officers exited the police vehicle and pursued the Subject but did not broadcast their correct location or update their status with CD as the foot pursuit progressed.

Officers A and B suspected the Subject to be armed throughout the foot pursuit but did not convey this belief to each other. Officer B initially saw the Subject clenching his waistband as he ran from officers, which caused him/her to believe that he had a pistol. Officer B did not alert Officer A. Furthermore, Officer B chose not to broadcast a Code Six (on-scene) location because it was not “prudent.” Although Officer B provided a location, he/she did not know the cross street and thus offered an incomplete broadcast. According to Officer A, the Subject yelled, “I got a gun!” Officer A did not alert Officer B that the Subject had a gun. Officer A, however, did shout commands to the Subject to stop.

The BOPC noted that the UOFRB was critical of Officers A and B's overall lack of planning and communication between themselves before and during the foot pursuit. The UOFRB noted that Officers A and B had previously discussed the Subject, whom they believed to be a wanted ADW suspect, but did not discuss a plan to detain him. The UOFRB further assessed Officer A's missed opportunities to broadcast the foot pursuit and location when he/she was initially behind Officer B. Furthermore, neither officer shared with one another their observations about the Subject's movements indicating he was armed.

After the OIS, Officer B broadcast a "shots fired, officer needs help" call. Officers A and B did not communicate their correct location, which caused a responding unit to drive past the Subject, who was secreted near a fence and armed with a pistol. Officers A and B's lack of communication and situational awareness delayed responding units' ability to locate them, form a perimeter, and initiate a command post (CP) to coordinate additional aid and support.

The UOFRB determined that Officers A and B's lack of planning before and during the incident were significant deficiencies that placed both officers at risk. This is discussed further in Debriefing Points 1 and 2.

Time and Redeployment and/or Containment – Officers A and B believed that the Subject was an armed ADW suspect and pursued him in containment mode. Officer A observed the Subject manipulate his fanny pack and heard him claim to have a gun. During the foot pursuit, both officers did not redeploy to available cover behind the parked vehicles or offset from the Subject's direct line of sight. This is discussed further in Debriefing Points 1 and 2.

Other Resources – After the OIS, Officer B broadcast a "shots fired, officer needs help" call, resulting in multiple units responding to the scene, including an air unit. After the OIS, Metropolitan Division personnel responded, and the Subject was taken into custody.

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

Debriefing Point No. 1 Code-Six/Foot-Pursuit Broadcast

Believing the Subject was a wanted ADW suspect, Officer B told his/her partner, "That's him, that's him." According to Officer B, the Subject appeared nervous as he turned north and conducted a dangerous maneuver across three lanes of traffic. Officer A executed a U-turn and was now traveling west. Although they intended to detain the Subject, Officers A and B pursued the Subject on foot without broadcasting to CD their Code Six location. Approximately 25 seconds into the foot pursuit, Officer B broadcast that they were in foot pursuit. Officer B continued to broadcast as they pursued the Subject but did not provide a cross street or location information for responding officers. Officer A also failed to communicate their location or update CD of their progress.

After the OIS, Officer B broadcast that the Subject was running south in the alley. Unaware of the Subject's location, as well as Officers A and B's location, additional units drove north in the alley. Surveillance video captured two police vehicles driving past the gate where the Subject had secreted himself and was still armed. Additionally, Lieutenant A and Sergeant B arrived at the CP, met with Sergeant A, and attempted to locate Officers A and B, as the officers' location was unknown.

The BOPC noted that the UOFRB assessed Officers A and B's adherence to the Code Six policy and Foot Pursuit Concepts as it relates to their broadcasts. The UOFRB noted that 25 seconds elapsed from when Officers A and B initiated the foot pursuit until the broadcast that they were in foot pursuit. Despite suspecting that the Subject was wanted for ADW, Officers A and B did not advise CD of their Code Six location before initiating contact with him. The UOFRB noted Officer B's statement that he/she attempted to watch the Subject as he rode his bicycle behind the police vehicle. The UOFRB found that officers had sufficient time to confirm and broadcast their Code Six location. Having sufficient time, Officers A and B should have notified CD of their location before engaging in a foot pursuit with the Subject.

The UOFRB noted that not broadcasting their Code Six location and accurately updating location information during the foot pursuit created an ambush opportunity on responding units by the Subject, who was armed and hiding in the alleyway. The UOFRB discussed that responding officers and supervisors could not immediately locate Officers A and B to provide aid because they did not know the officers' location. The UOFRB recognized that the purpose of the Code Six and Foot Pursuit broadcast policies are to render assistance or aid if needed and provide situational awareness to responding officers of the Subject's location. This information is essential so that officers can approach safely, render assistance, and set up containment. The failure to communicate delayed the responding unit's ability to render assistance immediately and provided the Subject an opportunity to ambush officers.

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 Foot Pursuit Concepts

When the Subject initially fled from Officers A and B, they did not see him armed with a pistol. Officer B was initially the primary pursuing officer and saw the Subject clenching his waistband as he ran from the officers. Officer B believed that the Subject had a pistol but did not alert Officer A, the secondary officer. Officer A then ran past Officer B and became the primary officer. Officer B, who transitioned to the role of secondary officer, continued to take the same path as Officer A and did not offset from Officer A. Rather than utilize the parked vehicles as cover to offset the Subject's direction of travel, Officer B continued to follow directly behind the Subject, causing him/her to be entangled in clotheslines. Furthermore, Officer B did not broadcast their correct location or direction of travel during the foot pursuit.

Officer A noted that the Subject had slowed and reached into his backpack, removed a blue fanny pack, and then removed an unknown object. According to Officer A, the Subject yelled, "I got a gun!" Officer A believed that the Subject had armed himself and continued to pursue him in containment mode but followed the same path of travel as the Subject rather than utilizing the parked vehicles as cover. According to Officer A, he/she kept a safe distance from the Subject as he/she pursued him and wanted to maintain a clear view of the Subject to be sure he did not enter any doors or have access to the community.

After the Subject abandoned his backpack, Officer B stopped to retrieve it and momentarily lost sight of Officer A. Officer B continued following Officer A and observed him/her "pie the corner." Officer B heard a gunshot and then saw Officer A fire his/her pistol. Officer A stated he/she peeked his/her head around the fence after the Subject ran behind the fence just before the OIS. Officer A did not appear in the BWV to "pie" corners around the buildings during the foot pursuit.

The BOPC noted that the UOFRB assessed Officers A and B's decision to pursue the Subject, whom they believed was likely armed with a pistol. Neither Officer A nor Officer B saw the Subject possessing a pistol at the onset of the foot pursuit. The UOFRB considered all the evidence and statements provided by Officer B as they pertained to his/her initial pursuit of the Subject before being passed by Officer A.

The UOFRB opined that by utilizing available parked vehicles in the area, Officer B would neither have entangled himself/herself in the clotheslines nor been in direct line of sight when following the Subject. The failure to utilize available cover and follow the direct path of the Subject's travel placed him/her at a tactical disadvantage.

When Officer B stopped to pick up the Subject's fanny pack, the UOFRB noted that approximately seven seconds elapsed to accomplish this task. During this time, Officer B lost sight of Officer A, who continued in foot pursuit and rounded two short corners of the building. The UOFRB opined that this slight separation would have prevented Officer B from rendering aid to Officer A if needed; however, the UOFRB would have preferred that Officer B had communicated his/her intention to retrieve the fanny pack, so that Officer A could slow his/her pace. Alternatively, Officer B could have left the fanny pack to reduce the amount of time in which he/she lost sight of his/her partner.

During the foot pursuit, Officer A observed the Subject reach into his fanny pack, pull out an unknown object, and hold it at chest level. He/she also heard the Subject state, "I got a gun!" The UOFRB noted several factors in finding that Officer A was engaged in containment mode rather than apprehension mode during the foot pursuit. The UOFRB considered Officer A's statements that he/she was a fast runner and slowed himself/herself in response to the Subject's slowing pace. The UOFRB opined that Officer A could have caught up to the Subject to apprehend him but chose not to close the distance.

While finding that Officer A was in containment mode, they noted several deficiencies in Officer A's foot pursuit tactics. In considering the distances between Officer A and the Subject and the parked vehicles that they passed, the UOFRB noted that Officer A should have allowed for more distance and used the cars for cover. This would have placed Officer A in a tactically advantageous position by off-setting him/her from the Subject's line of sight, creating distance, and affording cover and concealment. The UOFRB was further concerned at the pace at which Officer A rounded corners following the Subject. It did not appear to allow sufficient time to effectively "slice the pie."

The UOFRB determined that Officer A should have continued to increase his/her distance from the Subject, utilized the parked vehicles to offset the Subject, and focused on communicating with his/her partner to set up containment. The UOFRB discussed that although they observed Officer A "pie" the corners slightly at times, they would have preferred to see more of an effort to slow his/her pace and increase his/her angle as he/she rounded the corners attempting to contain the Subject.

The UOFRB concluded that both officers appeared to pursue the Subject in containment mode, but neither utilized the parked vehicles to their advantage as cover or take themselves out of the Subject's direct path of travel or line of sight. The UOFRB found that the approximate 30-35 feet, as determined by FID investigators, was not a safe enough distance to pursue an armed suspect in containment mode.

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.

Additional Tactical Debrief Topics

- **Pistol with Attached Light (PWAL)** – After the OIS, the Subject fled from officers and a perimeter was initiated. In the interim, Officer A unholstered his/her pistol several times to illuminate the area behind the Conex box to search for evidence and to illuminate street signs. Per Department training for the PWAL, the attached pistol light is not to be utilized as an independent light but when it conforms to our drawing and exhibiting policy.
- **Single-Handed Shooting** – The investigation determined that Officer A utilized a single-handed shooting grip when firing his/her first round during the OIS.
- **Non-Medical Face Coverings** – Officers A and B were not wearing non-medical face coverings at the scene, as directed by the Chief in May 2020.

Command and Control

At approximately 2225 hours, Sergeant A arrived in the area, broadcast that he/she was Code Six, declared himself/herself as the IC, and began attempting to locate the involved officers.

At approximately 2226 hours, Lieutenant A and Sergeant B arrived at the Command Post (CP).

At approximately 2233 hours, Sergeants A, B, and Lieutenant A located Officers A and B. Lieutenant A broadcast that he/she was the IC. Sergeant B searched through the OIS scene to locate and identify any evidence to preserve. Officers A and B relayed some information to responding units and the air unit. At the same time, the Subject continued to move within the perimeter. When the air unit saw the Subject climbing over a fence into the recycling yard, Officer A responded to that area and requested additional officers. Observing this, Sergeant A responded to the same location, put together an arrest and contact team should the Subject re-appear, and directed Officer A to return to Lieutenant A and his/her partner, Officer B. Approximately 20 minutes later, at 2253 hours, Officers A and B were separated by Lieutenant A, and each officer was assigned a supervisor. Supervisors cited tactical concerns as the reason for delaying the separation and monitoring of the involved officers. Sergeant B was tasked with obtaining the PSS from and monitoring Officer A; however, his/her supervisor's log lacked detail and specificity. Sergeant A was tasked with obtaining the PSS from and monitoring Officer B. Both officers' BWV cameras were secured and later handed over to FID investigators.

Lieutenant A directed the recovery of the Subject's pistol. According to Lieutenant A, due to the proximity of the pistol where the Subject was last seen, he/she believed that the Subject could have access to it if he climbed the gate; so assigning an officer to guard the pistol would have jeopardized their safety because the Subject's whereabouts were unknown.

The BOPC noted that the UOFRB reflected positively on the speed at which the sergeants and lieutenant had arrived on the scene and began taking immediate action. The UOFRB did, however, note the primary officers and supervisors remained in the inner perimeter where the OIS occurred and conducted searches for evidence. The UOFRB would have preferred that the supervisors had secured the scene and posted officers there to ensure the preservation of the evidence for FID investigators.

While this was an ongoing tactical incident, the UOFRB opined that Lieutenant A should have delegated specific duties to each supervisor. The duties included separating the officers, obtaining a PSS, managing incoming resources, and handling communication broadcasts. By obtaining a timely PSS, the IC would acquire sufficient situational awareness to identify and efficiently address public safety concerns while protecting the involved officers and maintaining the investigation's integrity.

The UOFRB had concerns with the supervision and management of the officers at the scene, which contributed to deviations from Department standards. Officer A left the supervisors and self-deployed to the area where the Subject was observed by the air unit climbing into the recycling yard. Personnel walked through the site of the OIS,

repeatedly trying to identify evidence. The involved officers and responding supervisors also discussed the incident's details before their separation.

The BOPC determined that Sergeants A, B, and Lieutenant A's overall actions were inconsistent with Department training and the Chief's expectations of supervisors during a critical incident. Therefore, Sergeants A, B, and Lieutenant A were directed to attend the Tactical Debrief to address post CUOF protocols to include topics related to separation of involved officers, obtaining a PSS, separation, log documentation, and scene preservation.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC determined that Officers A and B's actions were a substantial deviation, without justification, from Department-approved tactical training.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions during this incident.

Although it was determined that Sergeants A, B, and Lieutenant A would not receive formal findings, the Chief determined, and the BOPC concurred, that they would also benefit from attending the Tactical Debrief.

B. Drawing and Exhibiting

- **Officer A**

Believing that the Subject was a wanted suspect from an ADW shooting that occurred four days prior, Officer A unholstered his/her pistol as the Subject fled from pursuing officers. According to Officer A, he/she believed that the Subject could still be armed from the prior ADW shooting.

- **Officer B**

While pursuing the Subject, Officer B saw Officer A "pie" the corner of a fence where Officer B believed the Subject ran. Officer B heard a gunshot that he/she believed came from the Subject and observed Officer A fire his/her pistol. Officer B dropped the Subject's fanny pack and unholstered his/her pistol because he/she believed that the Subject was shooting at and wanted to kill them.

The BOPC noted that the UOFRB assessed Officers A and B's drawing and exhibiting of their pistols. As it pertained to Officer A, the UOFRB considered Officer A's knowledge of the recent ADW shooting coupled with the Subject's similar appearance to the suspect description on the flyer, who was likely armed. The UOFRB evaluated

Officer A's decision to unholster while running and determined that Officer A appeared to maintain safety considerations with respect to his/her finger placement and muzzle direction when he/she fell. The UOFRB concluded that it was reasonable for Officer A to unholster his/her pistol while pursuing the Subject.

Regarding Officer B, the UOFRB noted that after he/she observed his/her partner "pieing the corner" of the fence, he/she heard a gunshot and observed his/her partner fire his/her pistol. Officer B then unholstered his/her pistol in response. The UOFRB opined that it was reasonable and prudent for Officer B to believe that he/she was facing a situation where he/she may have to utilize lethal force.

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

C. Lethal Use of Force

Background - According to Officer A, the background was an empty alleyway and a concrete wall to a four-story apartment complex.

According to the FID investigation, Officer A's background was a metal Conex box and the tile wall of a two-story building located approximately 60 feet west of Officer A. The wall and the Conex box were struck by gunfire.

- **Officer A** – pistol, three rounds fired in 1.387 seconds, from an increasing distance of 26 to 30 feet in a westerly direction.

After the Subject fired one round, Officer A "pied" the corner of the fence and observed the Subject with his left arm extended up, with his left hand on the Conex box and his right hand holding a pistol under his left armpit, with the barrel of the pistol pointing at Officer A. Believing the Subject was going to shoot at him/her again, Officer A targeted the Subject's center body mass and fired his/her first round from 26 feet utilizing a one-handed grip. As the Subject moved west, he continued to point his pistol at Officer A. Officer A took a step forward toward the fence, targeted the Subject's center body mass, and fired his/her second round from 28 feet utilizing a two-handed grip. Officer A remained behind cover as the Subject continued to point the pistol in his/her direction and Officer A targeted the Subject's center body mass once more and fired his/her third round from 30 feet utilizing a two-handed grip. During Officer A's assessment, after the third round, the Subject disappeared behind the Conex box, and he/she could no longer see the Subject.

The BOPC noted that the UOFRB considered the available evidence, including Officer A's statements, his/her BWV, and outside surveillance video, when assessing Officer A's lethal use of force. Officer A articulated hearing one gunshot

and observing the Subject with a pistol pointed in Officer A's direction from underneath his arm as if the Subject prepared to ambush Officer A. The UOFRB noted that Officer A fired all three rounds from his/her pistol within 1.387 seconds and in his/her assessments between rounds, Officer A acknowledged that the Subject was moving behind the Conex box but still had the pistol pointed at him/her, presenting an imminent lethal threat. Although the frame-by-frame video evidence suggests that the Subject was behind the Conex box when Officer A fired his/her third round, the UOFRB opined that Officer A's assessment to a perceived lethal threat in real time and then reacting to that threat was a contributing factor. As such, the UOFRB concluded that Officer A's firing of all three rounds was objectively reasonable, proportional, and necessary, in response to the perceived imminent lethal threat.

The UOFRB assessed Officer A's background at the time he/she fired his three rounds and noted FID's investigation confirming that no one was in his/her background as his/her rounds struck the Conex box and tiled wall of a multi-level building.

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