

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

**OFFICER-INVOLVED SHOOTING – 003-20**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ()</u></b>	<b><u>Uniform-Yes (X) No ()</u></b>
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Pacific	1/11/20		
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<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
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Sergeant A	13 years
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**Reason for Police Contact**

Sergeant A responded to a radio call of a man armed with a gun. Sergeant A observed the Subject walking toward him/her. Sergeant A stopped and exited his/her police vehicle in order to make contact with the Subject. The Subject pointed what Sergeant A believed to be a handgun in the direction of Sergeant A, resulting in an Officer-Involved Shooting (OIS).

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
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Male, 31 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 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 investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on November 24, 2020.

## **Incident Summary**

Communications Division (CD) received a 911 call from Witness A who stated he had just seen the Subject walking around the street with a firearm at Sepulveda Boulevard and Venice Boulevard. The Subject was armed with a small black firearm in his left hand, he was unstable on his feet, and walking towards Overland Avenue. Witness A described the Subject as being a male, medium height, small build, in his 30's, wearing black pants and a denim jacket.

CD broadcast the call, to Pacific units, that there was a 415 man with a gun located at the intersection of Sepulveda Boulevard and Venice Boulevard and last seen walking towards Overland Avenue. Also included in the broadcast was that the suspect was a "male [...], 30 years, medium height, small blue denim jacket, black pants."

Police Officers A and B accepted the radio call. Officers A and B upgraded their response to an emergency call (Code Three), due to the nature and comments of the call, and also requested that an Air Unit respond. Police Officers C, D, E, F, G and H also responded to the vicinity of the call.

CD again broadcast the Subject's description, last known direction of travel, and requested that an Air Unit respond. Sergeant A was at Pacific Community Police Station (CPS) when he/she heard the radio broadcast. Sergeant A then notified CD that he/she was responding to the call.

Officers C and D broadcast that they were on scene and drove east past a gas station, located at Sepulveda Boulevard and Venice Boulevard, toward Overland Avenue. Officers A and B were traveling north on Sepulveda Boulevard and turned east on Venice Boulevard following Officers C and D at a distance. Simultaneously, Officers E and F were searching for the Subject in and around the area of Venice Boulevard and Overland Avenue.

An additional 911 call was received from Witness B who stated that he had just driven past the intersection and that there was a male wearing a blue long sleeve shirt, the Subject had a small black gun, and was waving it around.

Sergeant A broadcast that he/she was in the area. Unbeknownst to Sergeant A and the other responding officers, Culver City Police Department (CCPD) Officers had prior contacts with the Subject on December 30, 2019, and on January 2, 2020, at the same intersection.

On December 30, 2019, the Subject was waving a knife at pedestrians. During CCPD's investigation, the Subject used his fingers and simulated pointing a handgun at the officers and verbalized the sound of a gunshot. On January 2, 2020, the Subject was brandishing a knife and threatening customers at the gas station. The CCPD officers assigned to the calls determined that the Subject's mental health was in question on both occasions.

Sergeant A observed the Subject near a gas station and broadcast that he/she had located the Subject on the corner of Tuller Avenue and Venice Boulevard. Officers A, B, C, and D heard the broadcast and responded toward the gas station.

According to Sergeant A, he/she observed the Subject acting extremely erratically, flailing his arms, walking with jerky motions, and his head was out of control looking around. Sergeant A stated that he/she knew it was the Subject based on the previous radio calls. After his/her broadcast, Sergeant A positioned his/her vehicle in a southeasterly direction in the intersection of Venice Boulevard and Tuller Avenue facing the Subject. Sergeant A utilized his/her vehicle for cover.

Witness C dialed 911 and reported the Subject whom she believed was in possession of a gun. Witness C stated that the Subject was on foot on Venice Boulevard south of Sepulveda Boulevard, that he was acting very erratically and pointing what she believed was a gun at people.

The Air Unit was orbiting above Venice Boulevard and Tuller Avenue. Officer I, the Tactical Flight officer (TFO), advised responding units that the Subject was very erratic and warned responding units arriving at the gas station to watch for the potential of crossfire.

According to Sergeant A, he/she unholstered as he/she got out of the car. Sergeant A stated that there were two nearly identical calls which led him/her to believe that it was a legitimate man with a gun call and that the Subject had a real gun.

Sergeant A exited his/her vehicle and began giving verbal commands for the Subject to stop. At that point, the Subject looked in Sergeant A's direction as he continued walking on the sidewalk toward Subject A. According to Sergeant A, he/she observed the Subject carrying an item in his right hand. The Subject then moved his left hand toward his waistband and pointed a small black object at Sergeant A that, based on the object's appearance, he/she believed to be a handgun.

According to Sergeant A, the Subject was holding a firearm in his left hand at waist level when he began to bring it up and point it at him/her and in the direction of the homeless encampment that was located directly behind him/her under the 405 Freeway. The Subject then turned the apparent firearm back at Sergeant A, at which time Sergeant A fired three rounds at the Subject in a southeasterly direction from an approximate distance of 80 feet. According to Sergeant A, the first volley of rounds missed the Subject.

Believing the Subject was still pointing the gun at him/her, Sergeant A fired three additional rounds at the Subject. The Subject fell to the sidewalk. As the Subject lay on the ground, his left hand was resting close to the left side of his body. This obscured Sergeant A's view and prevented him/her from determining whether or not the Subject was still armed.

Meanwhile, Officers A, B, C, D, G, and H entered the parking lot on the east side of the gas station as they continued looking for the Subject. After hearing the gunshots, the officers exited their vehicle and used parked vehicles for cover as they approached Sergeant A's position. Sergeant A broadcast that shots had been fired.

After the OIS, Sergeant A activated his/her BWV. The BWV captured the Subject lying on the sidewalk and not moving, but it did not capture the OIS.

Sergeant A drove his/her vehicle forward a short distance. Sergeant A did so in an attempt to improve his/her view of the Subject and to ascertain if the Subject was still armed. As Sergeant A repositioned his/her vehicle, Officers G and H maintained their cover behind the vehicle's doors. Moving the vehicle proved fruitless as the Subject's left hand was still too close to his body and officers were still unable to determine if he was armed.

Officers A, B, C, E, and F joined Sergeant A at his/her vehicle. Sergeant A developed a plan to approach and take the Subject into custody, issuing the following assignments: Officer B was assigned as point and used a ballistic shield for cover as the team approached the Subject. Officers D and F were lethal cover, each armed with a shotgun. Officer E was assigned the role of less-lethal with the TASER. Officers A, C, G, and H were the designated arrest team.

Officer I broadcast a request to have a Rescue Ambulance (RA) respond to the location and standby.

Sergeant A's BWV depicts the arrest team making their approach to take the Subject into custody. The arrest team stopped within a few feet to the right side of the Subject and verified each team member's assignment. Sergeant A and Officer E advised the officers that the Subject's arms would need to be secured. Officer G was instructed to control the Subject's right arm and Officer C was assigned to control the Subject's left arm, while Officer H applied the handcuffs.

Officer A left the arrest team and walked to the left side of the Subject to verify whether the Subject had a weapon in his left hand. Officer A returned to the team and advised Sergeant A that he/she was unable to see if the Subject still had a weapon in his hand.

As the arrest team moved toward the Subject, Officer C's BWV depicted an item that appeared to be a handgun on the sidewalk, to the left and adjacent to the Subject's left hand. This item was later identified by the investigation to be a black bicycle stem, similar in shape to a handgun.

Officers C and G then controlled the Subject's arms, as instructed. As they did so, Officer A placed his/her right foot on the Subject's right shin. Officer E was captured on BWV using a firm grip to help control the Subject's right hand. The Subject was then rolled onto his stomach and handcuffed by Officer H. After the Subject was taken into custody, Fire Department personnel approached to treat the Subject. At that point, Sergeant A directed officers to secure the crime scene.

Sergeants B, C, and D responded to the scene in response to the OIS. Sergeant A informed Sergeant B that he/she was the involved officer. Sergeant B assumed the role of Incident Commander (IC). He/she then directed Sergeant C to separate Sergeant A from the other officers and to obtain a Public Safety Statement (PSS) from Sergeant A.

Paramedics transported the Subject to hospital where he later succumbed to his injuries.

The following accounts were obtained from witnesses:

Witness D was driving east along Venice Boulevard. Witness D stated that he was stopped in traffic approximately five to ten feet behind Sergeant A near Tuller Avenue. As he waited to move into the right lane to make a right turn onto southbound Sepulveda Boulevard, he observed Sergeant A standing outside the police vehicle with his/her pistol drawn. Witness D then observed the Subject on the sidewalk with what he assumed was a gun in his hand, exhibiting erratic behavior.

Witness D heard Sergeant A yell something which got the Subject's attention and then saw the Subject point what Witness D assumed was a gun in the direction of Sergeant A. There was a short pause, followed by multiple shots being fired, and the Subject fell to the ground.

Witness E was parked behind the food truck and exiting her car to purchase food. According to Witness E, she heard a commotion around her and someone yelling for her to get down, at which time she observed a police vehicle stopped at Tuller Avenue and Venice Boulevard. Sergeant A was standing by the driver's side of the police vehicle. She heard Sergeant A say something to the Subject, but could not clearly hear what was said. Witness E stated that the Subject was walking a little bit sideways and waving a gun in the direction of Sergeant A. She then heard five to six gunshots and saw the Subject fall to the ground.

Witnesses F and G were behind the Subject and walking together. They were walking west on the south sidewalk of Venice Boulevard approaching Tuller Avenue prior to the OIS.

According to Witness F, she observed the Subject directly in front of them and violently waving his arms in the air. Witness F then observed a police vehicle at the intersection of Venice Boulevard and Tuller Avenue. According to Witness F, she observed Sergeant A's mouth moving as if he/she was giving the Subject orders, but the Subject continued waving his arms in the air, at which time Sergeant A removed his/her gun from the holster and she heard gunshots. Witness F stated that she saw the Subject first and then noticed that there was a police car. Witness F noticed that there was a dark object in the Subject's left hand.

Witness G stated that she and Witness F were walking home and observed the Subject walking in the same direction, in front of them. A police vehicle arrived as the Subject was turned in her direction, and Sergeant A exited the car and told the Subject something. Witness G could not hear what Sergeant A said and then she heard three gunshots. She turned around to run away and then she and Witness F hid in front of the food truck.

Witness H was parked on Venice Boulevard just east of Tuller Avenue. Witness H stated he had observed the Subject on and off in the area of the gas station for approximately one week. Witness H believed the Subject was homeless as he was often talking to himself. A day before the OIS, Witness H observed the Subject in the area of the gas station using his fingers to simulate that he was holding a handgun. According to Witness H, on the day of the OIS the Subject walked past the food truck and went into the gas station. He returned a short time later and was walking on the sidewalk while holding and pointing a small black plastic item that looked like a toy gun. Witness H then observed officers in the area with their guns drawn. Witness H said he heard four to five gunshots, looked up, and observed the Subject on the ground.

Witnesses I and J were eating at the food truck. Witness I stated that he was ordering food at the food truck when he observed Sergeant A stop his/her vehicle approximately 30 to 50 feet behind the food truck and exit his/her vehicle. Sergeant A said something, but Witness I could not hear exactly what was said.

According to Witness I, he saw the Subject with something in his hand, which he believed was a weapon. Witness I heard Sergeant A say something and then saw Sergeant A shoot the Subject. Witness I believed he heard approximately two shots. Witness I added that the Subject was holding the weapon in his right-hand at waist level as he faced Sergeant A.

Witness J had his back to the sidewalk when he heard gunshots. Witness I told him that there was shooting, at which time he and Witness I moved toward the front of the food truck for cover. Witness J did not witness the OIS. Witness J stated he did not see the Subject prior to the OIS and he did not observe any weapons at scene.

### **Los Angeles Board of Police Commissioners' 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.

## **B. Drawing and Exhibiting**

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

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

The BOPC found Sergeant 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. It is also recognized 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 and reasonable to do so. When warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the constitutional rights of individuals upon whom unreasonable 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. 1, 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 Force – General.** 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.

**Use of Force – Deadly.** It is the policy of the Department that deadly force shall be used only when necessary in defense of human life. Specifically, deadly force shall only be used to:

- Defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- 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. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

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.

**Factors Used to Determine Whether Deadly Force was Necessary.** The Department examines the necessity of deadly force by evaluating each situation in light of the particular circumstances of each case, and whether other resources and techniques were reasonably safe and feasible to an objectively reasonable officer.

The Department shall also consider the totality of the circumstances, including the officer's tactics and decisions leading up to the use of deadly force. (Special Order No. 1, 2020, Policy on the Use of Force - Revised.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject 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 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, October 2016.)

## 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** – Prior to responding to the radio call, Sergeant A restarted his/her police vehicle's Mobile Data Computer (MDC) in order to read the comments listed in the radio call. Once his/her MDC had restarted, Sergeant A responded to the call Code Two. Sergeant A stated that his/her intention, as a supervisor, was not to be the first unit on scene, but instead to be present at scene in case of a major incident and to be able provide direction and guidance.

When Sergeant A attempted to contain the Subject, he/she utilized his/her police vehicle and the door mounted ballistic panels as cover from the potential deadly threat that Sergeant A believed existed from the Subject being armed with a handgun. Sergeant A also stopped his/her police vehicle approximately 80 feet from the Subject. Due to the Subject retrieving a black item from his waistband, which Sergeant A perceived to be a handgun, Sergeant A had minimal time to formulate a further plan, but instead adapted and quickly reacted to respond to the threat the Subject posed to Sergeant A and the community.

After the OIS, Sergeant A formulated a plan to approach the Subject and take him into custody. Sergeant A utilized available tactical resources, such as a ballistic shield, which he/she incorporated into his/her plan. Sergeant A utilized the available police personnel at scene and ensured all necessary roles for an arrest team were designated, including less-lethal force options, a Designated Cover Officer (DCO), and a designated arrest team.

The BOPC noted that Sergeant A responded to the radio call with the intent of providing supervisory oversight to officers involved in the radio call and to take an active leadership role if the radio call evolved into a critical incident. Sergeant A purposely responded Code Two instead of Code Three to allow more time for the responding officers to place themselves Code Six and canvass for the Subject prior to Sergeant A's arrival.

**Assessment** – While driving to the radio call, Sergeant A continuously monitored his/her police radio for additional comments or radio calls that were being broadcasted. Sergeant A heard two calls broadcast for a man with a gun at the

intersection of Sepulveda Boulevard and Venice Boulevard. This led Sergeant A to believe the radio calls were legitimate based on the incident having two separate callers who both reported they observed the Subject holding a handgun. Both callers also had similar descriptions and reported actions of the Subject. Sergeant A's assessment of the situation elevated his/her belief that the Subject was armed with a handgun.

As Sergeant A departed the police station, he/she heard the Air Unit request the units that were at the radio call to switch to Pacific Area Simplex Frequency. Sergeant A switched his/her handheld police radio to Pacific Area Simplex Frequency and attempted to listen to the communications between the Air Unit and the responding patrol units. Sergeant A was unable to hear any communication on Simplex Frequency because he/she was too distant from the radio call. Sergeant A kept his/her police vehicle's radio on Pacific Area Base Frequency to monitor for additional comments on the current call or newly generated radio calls. As Sergeant A approached the area of the radio call, Sergeant A visually scanned his/her surroundings. Sergeant A observed other police vehicles canvassing the area to the north and east of the radio call location.

According to Sergeant A, he/she observed the Subject on the south sidewalk of Venice Boulevard, approaching Tuller Avenue. Sergeant A stated he/she believed the Subject was the suspect from the radio calls based on the descriptions that had come out from the radio calls. Sergeant A felt that he/she had to act in the interest of public safety to prevent the Subject from going east or west where the Subject would have access to numerous community members. Sergeant A stated a gas station and a food truck were located east of the Subject and a homeless encampment was located west of the Subject, in addition to heavy traffic on Venice Boulevard.

Sergeant A stated that he/she was also aware that the background of his/her discharged rounds was the back wall of the convenience store, and he/she did not observe any community members in his/her line of fire. While engaged in the OIS, Sergeant A had the clarity of mind to assess between his/her shots. Sergeant A discharged three shots and assessed to see if they had any effect on the Subject or his behavior. Sergeant A observed that the Subject was continuing to point the black object, which Sergeant A believed to be a handgun, at him/her. Sergeant A took immediate action and discharged three additional rounds at the Subject. After the second volley, Sergeant A immediately reassessed and saw that the Subject had fallen to the floor. Sergeant A assessed the Subject no longer posed an imminent threat.

After the OIS, Sergeant A drove his/her police vehicle forward a short distance to better assess if the Subject retained possession of the perceived handgun, with Officers G and H walking alongside Sergeant A's police vehicle. Once additional officers had arrived at the OIS location, Sergeant A stated that he/she consciously and immediately shifted to a supervisory role. Sergeant A assessed the ongoing tactical situation and what resources were required to render aid to the Subject and to safely take him into custody. Throughout the arrest team's approach to the Subject, Sergeant A prioritized assessing if the Subject was still in possession of the

perceived handgun and utilizing his/her available resources to safely take the Subject into custody.

The BOPC noted that Sergeant A continuously assessed the tactical situation as he/she responded to the radio call. Sergeant A assessed both audibly, via his/her in-car police radio and his/her handheld police radio, and visually, scanning his/her surroundings as he/she drove eastbound on Venice Boulevard.

The BOPC also noted that during the OIS, Sergeant A was able to assess between the first and second volley of fire. Sergeant A demonstrated control in his/her application of deadly force by firing three rounds in two volleys, when confronted by the deadly threat of the Subject pointing a perceived handgun at him/her. The BOPC noted that Sergeant A fired in a controlled manner and further noted that several witnesses described Sergeant A's behavior as calm during this dynamic OIS incident.

**Time** – Sergeant A utilized time while he/she responded to the radio call. According to Sergeant A, as a supervisor, he/she did not want to be the first unit at scene and responded to the location as a priority call (Code Two). Prior to departing from Pacific CPS, Sergeant A ensured that his/her MDC was functional, and he/she was able to access the comments of the radio call.

Upon observing the Subject, Sergeant A immediately attempted to open a verbal dialogue with the Subject to gain voluntary compliance, from a distance of approximately 80 feet while behind the cover of his/her police vehicle's door mounted ballistic panels. This additional distance and use of cover allowed Sergeant A the possible opportunity to have more time to communicate with the Subject and attempt to de-escalate the situation. This combination of precautions taken by Sergeant A is representative of the formula used to assist officers with gaining additional time to de-escalate high risk situations. However, the Subject reached into his waistband and withdrew a black object. According to Sergeant A, he/she perceived the object to be a handgun. The Subject pointed the black object at Sergeant A which took away Sergeant A's ability to utilize more time to de-escalate the tactical situation and resulted in an OIS.

After the OIS, Sergeant A stood by, behind the cover of his/her vehicle's ballistic panels, and took the time needed to secure the area surrounding the OIS scene and ensure no community members were in harm's way as officers prepared to take the Subject into custody. Sergeant A requested additional units and resources, such as a ballistic shield, and stood by until they arrived. Sergeant A organized the responding officers into an arrest team with designated roles. Sergeant A ensured the approach and arrest was slow and methodical, due to not knowing if the Subject was still armed.

The BOPC noted Sergeant A utilized multiple techniques to allow him/herself more time in his/her initial response to the radio call. Sergeant A allowed the primary officers to arrive and canvass for the Subject prior to his/her arrival. When Sergeant A arrived at the scene, time was reduced from him/her due to the Subject arming himself with what Sergeant A perceived to be a handgun and pointing it directly at

Sergeant A and other nearby community members. Sergeant A still attempted to use distance and cover to provide him/herself with more time to counter the perceived deadly threat posed by the Subject.

**Redeployment and/or Containment** – Sergeant A observed the Subject walking on the south sidewalk of Venice Boulevard, which had heavy pedestrian and vehicle traffic. The Subject was described by Sergeant A to be acting extremely erratically, in that he was flailing his arms, walking with jerky motions, and his head was out of control, looking all around. Sergeant A believed the Subject was the suspect from the radio calls based on the descriptions that had come out from the previous radio calls. Sergeant A felt that he/she had to act in the interest of public safety to prevent the Subject from going east or west, where the Subject would have access to numerous community members. Sergeant A stated a gas station, and a food truck were located east of the Subject, and a homeless encampment was located west of the Subject. Sergeant A initiated his/her detention of the Subject on the southeast corner of Venice Boulevard and Tuller Avenue in an effort to contain him and wait for additional patrol units to arrive. As Sergeant A attempted to contain the Subject, he/she stopped and positioned the vehicle approximately 80 feet from the Subject and utilized the driver door as cover.

The BOPC considered that the incident occurred in a mixed-use business and residential district, with many pedestrians in the area. The tactical situation was further complicated by the high volume of traffic due to the construction in the area. The BOPC discussed that the tactical situation was dictated by the Subject's actions in which he pointed a black object at Sergeant A and other community members. The black item was perceived to be a handgun by Sergeant A, as well as by numerous witnesses, including the witnesses that called and created the radio calls. Additionally, the BOPC noted that based on the rapidly unfolding tactical situation, it was not feasible for Sergeant A to wait for additional officers to contain the deadly threat posed by the Subject to the surrounding community members.

**Other Resources** – During his/her initial response, Officer A advised CD to notify CCPD of the radio calls due to the location of the calls being on the border of both police jurisdictions. This allowed CD to contact CCPD and work together in an effort to locate the Subject.

Immediately after the OIS, Sergeant A stood by behind the cover of his/her police vehicle and requested a ballistic shield to ensure the safety of officers prior to approaching the Subject. When formulating his/her arrest team, Sergeant A also assigned a DCO within the arrest team. This combination of ballistic shield and DCO provided protection for the approaching arrest team.

Immediately after the OIS, Officer I requested an RA for the Subject and requested that they stage in the immediate area in order to provide immediate medical care for the Subject once he/she was taken into custody. This request allowed LAFD personnel to arrive at the incident before the Subject was taken into custody.

**Lines of Communication** – Sergeant A kept clear and continuous communication with the units involved in the radio call. The BOPC noted that Sergeant A attempted

to listen to communications between the Air Unit and ground units when he/she was responding from the police station; however, he/she was hindered by the geographic limitations of the Simplex channel that was used by the Air Unit and responding ground units.

Upon observing the Subject, Sergeant A immediately broadcast on the police radio that he/she had located the Subject and provided the Subject's exact location on Tuller Avenue and Venice Boulevard. When CD repeated the street names, but incorrectly pronounced Tuller Avenue, Sergeant A rebroadcast the correct street name to ensure clear and concise communication between all the involved officers.

Upon contact with the Subject, Sergeant A immediately attempted verbal communication with the Subject. Sergeant A's attempts to speak with the Subject were cut short due to the Subject retrieving a black object, that according to Sergeant A, he/she perceived as a handgun, from his waistband and pointing it at Sergeant A and at the people in the nearby homeless encampment. This prompted Sergeant A to take immediate action to protect him/herself and the nearby community members in the homeless encampment.

After the OIS, Sergeant A formulated a plan and formed an arrest team to take the Subject into custody. Sergeant A communicated the plan and arrest team roles to the responding officers, which allowed the Subject to be taken into custody without incident.

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

#### **1. Back-Up Request**

Sergeant A responded to a radio call of a man with a gun and observed the Subject, who he/she believed was the suspect armed with a handgun. Sergeant A broadcast that he/she observed the Subject and provided his location; however, he/she did not broadcast a back-up request. Sergeant A attempted to contain the Subject prior to the arrival of additional units.

Although officers are given discretion regarding the appropriate time to request additional resources based on the ongoing tactical situation, a request for a back-up would have been tactically advantageous based on Sergeant A's observations and the information contained in the initial radio call broadcast.

According to Sergeant A, there were multiple calls for service generated by different callers regarding the Subject exhibiting a handgun. This led Sergeant A to believe that there was a high likelihood that the radio calls were legitimate in their description of the events that were unfolding in the area of Venice Boulevard and Sepulveda Boulevard, specifically a man walking around armed with a handgun. As Sergeant A approached the intersection of Venice Boulevard and Tuller Avenue, he/she observed the Subject and believed him to be the Subject of the radio calls. Sergeant A broadcast that he/she observed the Subject at Venice Boulevard and Tuller Avenue

The BOPC noted that prior to engaging with the Subject, Sergeant A broadcast that he/she was Code Six on the Subject and gave his/her location at Venice Boulevard and Tuller Avenue. Sergeant A additionally took time before engaging with the Subject to clarify the correct street name after CD mispronounced the street name. Despite not broadcasting the actual words "Back-Up," the BOPC deemed that Sergeant A's broadcast was sufficient to request immediate aid from the nearby patrol units.

Sergeant A was aware of the high level of pedestrian and vehicle traffic in the area, in addition to the numerous open businesses, public transportation stops, and the large homeless encampment in the area. Sergeant A knew other units were already Code Six on the call and he/she had observed police vehicles in his/her close proximity, however Sergeant A was also cognizant that he/she was a single officer unit in immediate proximity to the Subject. Sergeant A stated he/she felt he/she had to act in the interest of public safety and attempt to contain the Subject and not allow the Subject to gain access to the any of the surrounding community members. Sergeant A stated he/she intended to contain the Subject until an additional unit could respond.

The BOPC discussed Sergeant A's assessment of the situation, in which he/she stated that he/she felt he/she had to act in the interest of public safety by attempting to contain the Subject and prevent him access to the community members in the area. Sergeant A was cognizant that he/she was a single officer unit. Sergeant A stopped his/her police vehicle approximately 80 feet from the Subject, which afforded Sergeant A the opportunity to communicate with the Subject and attempt to de-escalate the situation. The Subject produced a black item, perceived by the sergeant and others to be a handgun, and pointed it at Sergeant A and at a nearby homeless encampment. The Subject's actions took away Sergeant A's ability to de-escalate the situation or wait for an additional unit to respond to his/her location.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's lack of an explicit back-up request and his/her immediate attempt to contain the Subject was not a substantial deviation from approved Department tactical training.

## **2. Tactical Communication/Tactical Planning**

After the OIS, additional officers had responded and arrived at Sergeant A's location. Sergeant A formulated a plan to approach the Subject to both render aid and to take him into custody. Although Sergeant A observed that the Subject appeared to be unresponsive, Sergeant A requested a ballistic shield to be deployed because he/she was unsure if the Subject was still armed. Sergeant A formed an arrest team consisting of Officer B as the point officer with the ballistic shield, Officer F would be the DCO, Officer G would be the handcuffing officer, and Officer A would be an additional trailing officer. Sergeant A would be responsible for radio communications. While the arrest team was being formulated, the Subject was on his back and non-responsive; however, the arrest team was concerned the Subject was still in possession of a handgun. Prior to

the arrest team's approach of the Subject, verbal commands were not given to the Subject to submit to arrest or assume a High-Risk Prone position.

During the approach and prior to the physical arrest of the Subject, the arrest team stopped their forward movement and assessed if they were able to locate the handgun used by the Subject. As the arrest team approached and came closer to the Subject, they paused because they could not view the Subject's left hand and determine if he was still armed. Sergeant A directed Officer A to redeploy to a position where he/she could verify if the Subject was in possession of the handgun. Officer A redeployed to an area opposite the arrest team in a potential crossfire situation. Officer A advised the arrest team not to approach because he/she could not see if the Subject was in possession of a handgun. Sergeant A advised Officer A to redeploy back to the arrest team. Officer E joined the arrest team and assisted Sergeant A in readjusting the arrest team to include additional officers. Sergeant A adjusted the plan by assigning Officer E the TASER, Officers C, G, and H as arresting officers, and Officers A and D as additional cover officers.

The BOPC noted that Sergeant A and Officer E were not completely in coordination with each other, which led to minor confusion and redundancy in officer roles and assignments. Officers were reminded to communicate clearly and concisely to coordinate their actions in order to maintain their safety when taking a Subject into custody.

Based on the totality of the circumstances, the BOPC determined that, although there are areas which can be improved, the tactical communication and planning during this incident were not substantial deviations from approved Department tactical training.

- The BOPC also considered the following:
  - **Stepping on Limbs** – As the arrest team was taking the Subject into custody, Officer A placed his/her right foot on the Subject's right ankle. Officer A stated that he/she did not place a significant amount of pressure or weight on the Subject's ankle. Officer A positioned his/her foot on the Subject's ankle so that he/she could have his/her hands available in the event a controlling agent was necessary if the Subject became physically combative. Officers were reminded that stepping on limbs can cause an officer to lose their balance and could lead to the Subject being injured.
  - **Crossfire** – As the arrest team approached and came closer to the Subject, they paused because they could not view the Subject's left hand to determine if he was still armed. Sergeant A directed Officer A to redeploy to a position where he/she could verify if the Subject retained the handgun. Officer A redeployed to the Subject's left side and advised the arrest team not to approach because he/she could not see if the Subject was still in possession of a handgun. Officer A had redeployed near the opposite side of the arrest team, which could have led to a potential crossfire situation, but was quickly corrected by Sergeant A.

Officers were reminded to consider their position relative to each other to avoid the potential of a crossfire situation.

## **Command and Control**

Sergeant A responded to the scene of a man with a gun radio call and became involved in an OIS incident. After the OIS, Sergeant A stated he/she consciously transitioned to a supervisory role and directed the ongoing tactical situation. Sergeant A formulated a tactical plan and assigned the roles of a point officer, a DCO, less-lethal force officer, and an arrest team. Sergeant A directed the approach of the Subject in order to render aid to the Subject and to take him safely into custody. Sergeant A additionally broadcast a request for an RA unit. After the Subject was taken into custody, Sergeant A directed the containment of a crime scene around the OIS location, directed a command post to be established, and advised responding officers of evidence that needed to be preserved. These supervisory actions were completed prior to being separated and monitored by the first arriving supervisors.

Sergeants B and C arrived at the OIS scene after the Subject was taken into custody. Sergeant A notified Sergeant B that he/she had been involved in an OIS. Sergeant B declared him/herself the IC and assumed IC duties from Sergeant A. Sergeant B directed Sergeant C to separate, monitor, and obtain a PSS from Sergeant A. Sergeant B continued to set up a CP at the nearby gas station, ensured that the crime scene was secured, and that a canvass for witnesses was being completed. Sergeant B additionally requested a Tactical Radio Frequency for the OIS incident. Sergeant B maintained his/her role as IC until relieved by Lieutenant A. Sergeant B noted an officer escort was not with the Subject's RA transport to the hospital and directed a police unit to respond to the hospital from the CP.

Sergeant C separated, monitored, and obtained a PSS from Sergeant A.

Lieutenant A responded to the OIS scene and assumed the role of IC from Sergeant B. Lieutenant A ensured the integrity of the crime scene was maintained, that a canvass for civilian witnesses was conducted, and that witnessing officers were identified, separated, and monitored. Lieutenant A took custody of Sergeant A's BWV camera and later provided it to FID investigators.

Sergeant D responded to the OIS incident and arrived shortly after Sergeants B and C. Sergeant D assisted with identifying, separating, and monitoring witnessing officers.

The actions of Lieutenant A and Sergeants A, B, C, and D were consistent with Department supervisory training and the BOPC's expectations of a field supervisor during a critical incident.

## **B. Drawing and Exhibiting**

- **Sergeant A**

According to Sergeant A, he/she responded to a man with a gun call. Due to two separate callers telephoning CD for the same suspect armed with a handgun, Sergeant A believed that the radio call was a legitimate call. Sergeant A drew his/her service pistol because he/she believed the Subject was armed with a handgun, he/she was alone, and that the situation could escalate to one involving deadly force.

The BOPC conducted a diligent assessment of Sergeant A's articulation regarding his/her decision to draw and exhibit his/her service pistol. The BOPC noted that the radio call was for a man armed with a gun which was reported by multiple callers. Sergeant A stated that the comments of the radio call were generated by two separate callers who reported they observed the Subject holding a handgun and that both had provided similar descriptions.

Based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Sergeant A, while faced with similar circumstances, 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 Sergeant A's drawing and exhibiting of a firearm to be In Policy.

## **C. Use of Force – Deadly**

- **Sergeant A – (pistol, 6 rounds)**

### **Volley One – (3 rounds)**

According to Sergeant A, he/she observed the Subject move his left hand to his waistband or pocket area. Sergeant A then lost sight of the Subject's left hand. When the Subject's hand came out of his waistband/pocket area, the Subject was holding a black item that Sergeant A stated looked like a handgun. Sergeant A ordered the Subject to drop the gun. The Subject pulled the black item, which Sergeant A described as a small black handgun, up towards Sergeant A, pointing the black item in the direction of Sergeant A and in the direction of the nearby homeless encampment. At this time, Sergeant A believed he/she was going to be in the middle of a gun battle. Sergeant A stated that the Subject held the black item in a handgun grip, with what appeared to a black slide protruding from the top of the Subject's hand, extending past his fingers. Sergeant A additionally observed a hole at the end of a barrel. Sergeant A feared for his/her life and the safety of the occupants of the homeless camp behind him/her. Sergeant A discharged three rounds from his/her service pistol at the Subject to defend him/herself and the community members.

## **Volley Two – (3 rounds)**

According to Sergeant A, after he/she discharged his/her first three rounds, he/she immediately re-assessed and observed that the Subject had not changed his behavior. The Subject was still standing and was still holding the apparent handgun. The Subject pointed his apparent handgun in Sergeant A's direction again and moved towards the food truck while still covering Sergeant A with the handgun. Sergeant A believed his/her life was in danger and fired three more rounds at the Subject in a continuing effort to stop the Subject. Sergeant A observed the Subject fall to the ground on his back.

**Background** – Sergeant A first observed the Subject walking on the south sidewalk of Venice Boulevard approaching Tuller Avenue, located just east of Sepulveda Boulevard. At the time of the incident, that area had heavy pedestrian and vehicle traffic, due to street construction on Venice Boulevard. Sergeant A observed there was a food truck to the east of the Subject, an inhabited homeless encampment to the west, and an open gas station convenience store to the southeast of the Subject. Sergeant A was also aware that the background of his/her fired rounds was the back wall of the gas station convenience store, where he/she observed no community members were in his/her line of fire.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness of Sergeant A's deadly force. The BOPC took into consideration that the Subject was reported by multiple callers as a man armed with a handgun and that this was known to Sergeant A at the time of his/her response. Sergeant A observed the Subject look directly at him/her when Sergeant A ordered him to stop. The Subject reached into his waistband area and removed a small black object that according to Sergeant A, he/she perceived to be a small black handgun. Sergeant A observed that the black object had a round opening on the end of the black object that resembled a barrel of a handgun. The black object also had what appeared to be the black slide of a handgun that protruded past the Subject's clenched hand.

The Subject's hand was closed around the black object in a manner that resembled a handgun grip. Sergeant A believed the black object to be a small handgun from his/her observations. The Subject pointed the black object at Sergeant A and the nearby homeless encampment full of community members. In fear for his/her life and the lives of the nearby community members in the homeless encampment, Sergeant A discharged three rounds from his/her service pistol at the Subject (Volley One).

The BOPC reviewed Sergeant A's discharging of an additional three rounds (Volley Two). Sergeant A immediately assessed the effect of the fired rounds on the Subject from Volley One. The Subject's behavior remained unchanged by Sergeant A's first three shots. The Subject continued to point what was perceived to be a small black handgun at Sergeant A and started moving towards the nearby occupied food truck. In fear for his/her life and the lives of the community members at the food truck, Sergeant A discharged an additional three rounds from his/her service pistol (Volley Two). Sergeant A immediately assessed again and observed that the Subject had fallen to the ground. Sergeant A determined that the Subject was no

longer an imminent threat and continued to cover the Subject as he/she waited for additional officers to arrive.

The BOPC also noted that, prior to Sergeant A's arrival, multiples callers had contacted CD and reported that the Subject was brandishing a handgun, which was later identified as a bicycle stem. In addition, Sergeant A perceived that the black object presented by the Subject was a handgun which Sergeant A described as a small and black object, which led to a high level of fear that he/she, Sergeant A, was going to be shot by the Subject. During the BOPC meeting, FID investigators presented a photograph of the object which was determined to be a part of a bicycle. The BOPC reviewed the photograph and noted that the object depicted, seen from 80 feet away and held in a manner consistent with a handgun, could reasonably be perceived to be a handgun.

The BOPC discussed the observations of two witnesses, Witnesses D and E, who observed the Subject holding a handgun at the time of the OIS incident. Sergeant A stood outside of his/her police vehicle and observed the Subject holding a handgun.

According to the FID investigation, Witness D was stopped in traffic approximately five to ten feet behind Sergeant A's vehicle. Witness D observed Sergeant A standing outside the police vehicle with his/her service pistol drawn. Witness D then observed the Subject on the sidewalk with what Witness D assumed was a handgun in his hand exhibiting erratic behavior. Witness E was parked behind the food truck when she observed Sergeant A standing by his/her police vehicle saying something to the Subject which she could not hear. Witness E observed the Subject waving what she believed was a handgun in the direction of Sergeant A and then heard five to six gunshots and saw the Subject fall to the ground.

The BOPC noted the rapid development of the tactical situation and that the FID investigation determined that approximately 20 seconds elapsed from when Sergeant A initially observed the Subject to the time the OIS occurred.

Based on the totality of circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the use of deadly force would be objectively reasonable and necessary.

Therefore, the BOPC found Sergeant A's lethal use of force to be In Policy.