

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

OFFICER-INVOLVED SHOOTING – 016-19

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southeast	4/22/19		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	2 years, 1 month
Officer B	1 year, 7 months

Reason for Police Contact

Officers responded to multiple radio calls of a male suspect armed with a pistol. As the officers attempted to contact the Subject, he produced a handgun and fired one round at the officers resulting in an Officer-Involved Shooting (OIS).

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 36 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 subject 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 March 31, 2020.

Incident Summary

At 0639:30 hours, Police Officers A and B were in their vehicle performing a log-off procedure but planned on re-logging on as partners. As Officer A's original partner had finished his shift, this procedure was necessary to ensure Communications Division (CD) was furnished with the correct information regarding which officers were assigned to that unit. As they were doing so, CD broadcast, "[...] Units 415 Man with a Gun [...], near the intersection. The suspect is the son, male [...] 35 years, white shirt and tan pants under the influence of narcotics [...]."

Officer B then broadcast that the officers were on route. Officers A and B responded with emergency lights and sirens (Code-Three) and activated their Body Worn Video (BWV).

As the officers were responding to the call, they discussed the availability of less-lethal weapons and the information they were receiving regarding the incident. Officer B stated that one of his/her primary duties was to consolidate and interpret the information being received from the multiple radio calls and updates that were being transmitted. He/she would then voice that information to his/her partner so that they knew who they were looking for and where to search for the suspect.

At 0640:30 hours, CD updated the broadcast, in part, advising that shots had been fired. Officer B acknowledged the updated broadcasts via the radio.

Several additional officers responded. CD also broadcasted the suspect's direction of travel and advised that a supervisor was on route.

Meanwhile, Witness A, was in the parking lot of a store, sitting inside his vehicle, when the Subject approached his driver's side door with a pistol in his right hand and knife in his left. This encounter was captured on security surveillance video. CD updated the broadcast to include the new information and that another witness saw the Subject at a gas station across the street from the store.

Another witness was driving his vehicle in the area when he observed the Subject armed with a handgun walking in the middle lanes of traffic.

At 0645:40 hours, Officers C and D broadcast that they were at scene. Officer B broadcast, "Ditto." He/she did so to notify the other responding units that he/she and Officer A had also arrived at scene.

At 0646:01 hours, Officer A slowed the police vehicle as he/she and Officer B neared the gas station, where the subject was last reported to have been walking toward. He/she observed a male matching the description of the subject, standing on the southwest corner of the intersection near the gas station. Officer A immediately alerted Officer B of his/her observations. According to Officer A, he/she observed the Subject holding a handgun with his right hand. Officer A immediately stopped their vehicle to

afford themselves distance and cover. The officers stopped in the number one lane approximately 40 feet away from the Subject. Officer A immediately exited his/her vehicle, unholstered his/her pistol, and took a position of cover behind the driver's side door.

At 0646:04 hours, as Officer B was exiting the vehicle, his/her BWV depicted him/her ordering the Subject to get on the ground. The Subject moved to a nearby light pole and appeared to use it as cover. The Subject then raised his handgun with his right hand, aimed, and fired one round at the officers. The bullet struck the passenger side door of the police vehicle. In immediate defense of their lives, both officers immediately and simultaneously returned gunfire.

Officer A maintained a position of cover behind the driver's side door, assumed a two-handed grip on his/her firearm, aimed at the Subject, and fired one round. Officer A quickly assessed and determined that the single round had not stopped the Subject. Officer A then fired four additional rounds in rapid succession at the Subject. All of Officer A's rounds were fired from an approximate distance of 46 feet.

Officer B also observed the Subject standing at a corner armed with a handgun. As soon as the police vehicle came to a stop, Officer B exited the passenger door and took a position of cover behind it. He/she immediately unholstered his/her pistol, assumed a two-handed grip on his/her firearm, aimed at the Subject and fired four rounds in rapid succession. All of Officer B's rounds were fired from an approximate distance of 41 feet.

The Subject was struck by several rounds. He fell to the ground with the handgun still in his hand. Officer B's BWV depicts the Subject laying on his left side with his backside facing the officers. The Subject then fully extended his right arm up and backwards, aiming the handgun toward the officers. In response, Officer B aimed his/her pistol at the Subject and fired one additional round from an approximate distance of 41 feet. The Subject was struck by the gunfire and stopped pointing his gun at the officers.

Following the shooting, a Rescue Ambulance was requested for the Subject. The Subject died as a result of the injuries he sustained during the incident.

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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers A and B's drawing and exhibition to be In Policy.

C. Lethal Use of Force

The BOPC found Officer A and B'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 value 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 objectively use 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 legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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), which states 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

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 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

- *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 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.

In this case, Officers A and B responded to a radio call of a man with a gun, which was upgraded to a “shooting just occurred” as the officers were responding. Officer A believed that he/she and Officer B needed to respond to the location because the community was in danger. As the officers arrived in the area, they observed the Subject, as described in the radio calls, and in possession of a handgun. The Subject took a position slightly behind a large pole and assumed a shooting stance while pointing the handgun toward Officers A and B. The Subject fired his handgun at the officers, striking the front passenger door of the police vehicle, which resulted in an OIS. The Force Investigation Division (FID) investigation revealed that only three seconds had elapsed between the time the officers had arrived and the Subject’s discharging his handgun at the officers.

- **Planning** – Officer A’s originally assigned partner received Watch Commander approval to leave early. Officers A and B were assigned to work together approximately one hour prior to the end of their shift and had not previously worked together. Officer A was completing some Field Interview cards, Automated Field Data Reports, and other administrative duties. At approximately 0620 hours, Officers A and B went to Officer A’s originally assigned police vehicle and decided they would log-off and re-log on as partners if they had to respond to a radio call prior to the end of their shift.

Officer A said he/she was preparing to log them off when this radio call was broadcast at 0639 hours and had not yet discussed tactics with Officer B; however, Officer A explained it was common practice for the driver to be the contact officer and the passenger to be the cover officer, but the roles could switch. Officer A usually discussed tactics with all his/her new partners but had not expected that he/she and Officer B would be going out in the field so close to the end of their shift.

As part of the planning process and while enroute to the radio call, Officer B consolidated all the incoming updates and radio call information while his/her partner, Officer A, drove them to the general area where the radio calls were being generated. Officer B cleared intersections for Officer A in between filtering the numerous pieces of information as calls continued to be broadcast. Officer B also verified with Officer A their less-lethal options while enroute to the call. As part of their contact and cover roles, Officer A alerted his/her partner of the possible suspect, stopped their police vehicle, and was preparing to direct the Subject to drop the handgun when the Subject fired a shot in the officers’ direction. Officer A explained their roles as contact and cover officer switched at that point. The Subject was closer to Officer B’s side, so Officer B assumed the role of contact officer and gave the Subject commands. Officer A then assumed the role of cover officer, broadcast a Help Call, began requesting resources over the radio, and communicated pertinent information for responding officers.

The BOPC would have preferred that these officers had discussed specific plans prior to engaging the Subject; however, the numerous calls for service broadcast

by CD in multiple locations, along with the rapidly unfolding incident, limited Officers A and B's ability to further plan and communicate with each other as they responded to the area. As part of the planning, Officer B did a good job processing the information and relaying that information to his/her partner, and both officers continued to discuss the information while responding.

- **Assessment** – Officers A and B began their initial assessment while driving to the radio call. Officer B continued to review incoming information on the Subject's description, movement, and possible locations.

Prior to arriving at the location, Officer A noted there were many people in the area, which caused Officer A to fear that the Subject might fire upon other people in the area based on the information received in the radio calls. Officer B verbalized his/her assessments to Officer A, and they began discussing potential gas station locations as they were closely approaching the area. Officer A observed the Subject and made an assessment that the Subject was the possible suspect who was generating the radio calls because the Subject was armed with a handgun. Officer B observed that the Subject was holding a handgun in his right hand. Officer B quickly assessed the need to immediately address the threat in order to safeguard the lives of the community since the radio calls had already indicated the Subject may have fired the handgun.

Due to the Subject's actions of taking a shooting position, Officer A estimated that he/she stopped the police vehicle approximately 40 feet away. Officers A and B assessed the Subject's actions, the background, and determined that the Subject posed a threat of serious bodily injury or death to both the officers and the citizens in the area. Officer B also recognized that a citizen was approaching the area on his bicycle, and Officer B quickly re-directed him out of the area.

The BOPC noted that during the OIS, Officers A and B assessed that their initial rounds did not stop the Subject's actions and responded with the minimal amount of additional lethal force to stop the Subject.

The BOPC noted that Officers A and B stopped firing when the Subject fell to the ground. Officer B only fired when the Subject pointed the handgun again at Officer B. Officers A and B utilized cover and had distance. Officer A was conscious of the early time of day and the emerging activity of other persons in the area. When Officer A fired his/her service pistol, he/she perceived that the Subject's background did not contain any persons or vehicles; however, Officer B's BWV depicts an intermittent flow of traffic behind the Subject in the background.

- **Time** – Officers A and B were faced with a rapidly escalating incident in which the Subject's actions posed a deadly threat to the officers and citizens in the area. Officers A and B were immediately confronted by the Subject who was clearly armed and fired the first shot within three seconds of the officers' arrival.

Due to the immediacy of the Subject's actions, the officers had limited opportunity to utilize time as a de-escalation technique in order to reduce the intensity of the encounter. Be that as it may, Officers A and B stopped the police vehicle the moment they observed the Subject, which afforded them some distance from the Subject while still maintaining a line of sight. Officer A then utilized that distance, combined with the cover of the police vehicle's ballistic door, to provide time in which to utilize verbalization as a de-escalation tool and in an attempt to resolve the incident peacefully, without the use of any force. Officer B also utilized that distance and verbalization as a de-escalation tool; however, Officer B did not take full advantage of the police vehicle's ballistic door panel and was slightly offset to the right of the door.

After the Subject discarded the handgun and knife, Officer E, as the Incident Commander (IC), recognized the opportunity to slow the pace of the officers' approach towards the Subject so that an appropriate tactical plan could be developed and safely implemented.

- **Redeployment and/or Containment** – Officers A and B approached the area and observed the Subject armed with a handgun. The officers parked their police vehicle and re-deployed from inside their vehicle into a position of cover, behind the vehicle's ballistic door panels. Officer A broadcast pertinent information regarding the Subject's position and directions for responding units to safely contain the area and eliminate a possible crossfire or cross-traffic situation.

Upon the arrival of additional officers, Officer B re-deployed from his/her position behind the vehicle's ballistic door panel and became part of the tactical plan and arrest team. Officer B was assigned as the designated cover officer in the arrest team in an effort to contain the Subject, prevent the Subject from further harming anyone, and to allow the Subject to receive medical attention. Containment of the scene continued with the placement of crime scene tape and the tactical positioning of the police vehicles to control the flow of vehicular and pedestrian traffic.

- **Other Resources** – Officer A was aware that additional resources were enroute due to the number of units that Officer A heard broadcast their response. As soon as safely feasible, Officer A upgraded their incident to a Help Call providing for additional assistance and situational awareness of incoming personnel and associated agencies. Officer A requested the resource of a Rescue Ambulance (RA) for the Subject in conformance with the Department's policy on the preservation of human life. As the supervisors arrived at the location and made assessments, the supervisors acquired additional resources as needed.
- **Lines of Communication** – The officers were responding to a rapidly unfolding incident and did not have time to discuss tactical roles but adhered to Departmental training. Officers A and B communicated with each other as they

responded to the radio call. Officer B provided pertinent information on the Subject's movements, updated locations, actions, and similar descriptions. Officers A and B discussed the possible gas station location where the Subject was last seen, as indicated in the radio calls, and while updates were continually broadcast.

While responding to the area, Officer A saw the Subject and immediately notified his/her partner, Officer B. The rapid nature of the incident limited Officers A and B's ability to establish lines of communication with the Subject. Although the officers attempted to de-escalate the Subject through communication efforts, the Subject did not emit a verbal response and instead, pointed a handgun at the officers, and discharged a round. Officer B continued to verbalize to the Subject in an effort to gain the Subject's compliance, but the Subject failed to drop the handgun as directed. The Subject still provided no verbal response to the officers after falling to the ground but continued to move and point the handgun back at the officers, while the Subject was facing away from the officers. After the Subject discarded the knife and handgun, Officer B attempted to provide clear directions to the Subject in an effort to take the Subject into custody. Officer A broadcast a Help Call over the base frequency, provided important information to responding units, and requested additional resources.

Lastly, Officer E communicated clear and concise instructions to the officers at scene while developing a tactical plan and forming an arrest team with designated roles. It was through this verbalization with the other officers that Officer E was able to slow down the tempo of the incident to prevent any further risk of unnecessary harm to the community, the officers, and the Subject.

The BOPC determined that while Officers A and B implemented elements of tactical de-escalation, the unprovoked and immediate actions of the Subject limited the officers' ability to fully implement further de-escalation techniques.

- During its review of the incident, the BOPC noted the following tactical considerations:

1. Tactical Planning/Communication

Operational success is based on the ability of the officers to effectively communicate during critical incidents. The officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

Officer A's partner was granted permission to leave early and Officer B, who was assigned to the kit room that evening, was re-assigned to be Officer A's partner approximately an hour prior to the end of their shift. Officer A said he/she was

preparing to log them off when a radio call was broadcast in their area at 0639 hours. Officer A had not yet discussed tactics with Officer B; however, he/she explained it was common practice for the driver to be the contact officer and the passenger to be the cover officer, but the roles could always be switched if needed. Officer A usually discussed tactics with all his/her new partners but hadn't expected he/she and Officer B would be going out in the field so close to the end of their shift. In this case, Officers A and B did not discuss a specific plan or communicate their tactical approach while responding to the radio call but rather, relied on traditional contact and cover roles with one another.

As part of their tactical planning and communication while enroute to the radio call, Officer B consolidated all the incoming updates and radio call information and verbalized the information to Officer A. Officer A drove them to the general area where the radio calls were being generated. Officer B cleared intersections for his/her partner in between filtering the numerous pieces of incoming information as the radio calls continued to be broadcast. Officer B also verified their less-lethal options with Officer A while enroute to the call and discussed the businesses in the area where the Subject had last been seen.

As part of their contact and cover roles, Officer A alerted his/her partner of the Subject, stopped their police vehicle, and was preparing to direct the Subject to drop the handgun when the Subject fired a shot in the officers' direction. Officer A explained that their roles as contact and cover officer switched at this point. The Subject was closer to Officer B's side, so Officer B assumed the role of contact officer and gave the Subject commands. Officer A then assumed the role of cover officer, broadcast a Help Call, began requesting resources over the radio, and communicated pertinent information for responding officers.

The BOPC noted that although their planning was limited, this was Officers B and A's first time working together and they had been assigned as partners near the end of their watch. The numerous calls and updates were indicative that this incident was serious and rapidly evolving. This incident involved a "man with a gun" radio call with comments that the Subject had fired rounds and was mobile. Due to the rapidly unfolding nature of this incident, the officers had limited time, which also limited their ability to further plan and communicate with each other as they were quickly responding to the area. The officers were immediately challenged by the Subject and communicated their observations to each other. The BOPC also noted there were no conflicting commands given by the officers to the Subject.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, Officer A and B's actions did not deviate from Department policy and training.

- The BOPC also considered the following:

- **Firearm Manipulations** – The FID investigation revealed that Officer D inadvertently induced a weapon malfunction when holstering his/her service pistol. This occurred when the slide of his/her service pistol encountered a portion of his/her holster causing the slide to move slightly to the rear. This prevented Officer D from properly securing his handgun because the retention holster did not completely close. Observing that the slide was out of battery, Officer D had to perform a clearance procedure, causing a round to eject. The round was appropriately left untouched for FID investigators. Officer D acknowledged that this was the second incident in which he/she had caused the slide of his/her handgun to go out of battery. He had a prior occurrence in an unrelated incident in which he/she induced the same malfunction.
- **Preservation of Evidence** – The FID investigation revealed that Officer C placed his/her foot on the grip of the Subject's handgun as the officers approached to handcuff the Subject. Officer C did not move the handgun with his/her foot; however, his/her foot remained on the handgun for approximately 48 seconds. After removing his/her foot, Officer C remained and continued to guard the handgun as evidence.
- **Utilization of Cover** – The investigation revealed that Officer B did not fully utilize his/her police vehicle's ballistic door panel when involved in the OIS with the Subject. Officer B positioned him/herself slightly offset to the right of the door. To give him/herself additional time if needed, Officer E parked behind Officers A and B's police vehicle. At this time, the Subject had fallen to the ground and thrown both his handgun and knife in front of himself. Officer E moved from his police vehicle to Officer B's police vehicle to verify if Officer B had been injured and to provide assistance to Officer B if needed. Officer E requested additional officers over to respond to Officer B's side of the police vehicle to discuss a tactical plan, assign roles, and to put together an arrest team, which required they be in close proximity to each other to hear and receive instructions. Officers E and several other officers did not utilize all available cover, which left them exposed.
- **Digital In-Car Video System (DICVS) Activation** – It was noted in the FID investigation that Officer A's original partner on the night of the incident had ended his shift early. As a result, Officer B was taken from the kit room and reassigned to work with Officer A. The officers were in the process of logging back on to the DICVS when the radio call was broadcast. The officers immediately responded to the call, having done so prior to the DICVS completing its rebooting cycle. The DICVS did not activate and received a shutdown command at 0628 hours.
- **BWV Activation** – The investigation revealed that Officer B had a late BWV activation, which was activated during his Code Three response. He/she powered it on and activated it while responding Code Three to the radio call as the primary unit. Officer B's BWV captured the OIS in its entirety.

These topics were to be discussed at the Tactical Debrief.

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

Each tactical incident also 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 personnel to discuss individual actions that took place during this incident.

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer B, as the officers approached, Officer B observed the Subject, who matched the description and was wearing a white shirt and dark pants. The Subject was on a corner standing right next to a light pole. Officer B observed that the Subject had a handgun in his hand and heard Officer A state, "That's him. That's him." When the Subject noticed the officers, he took a position of cover on the side of the light pole and raised his handgun up as the officers approached. Officer B opened his/her passenger door and gave the Subject commands to drop the handgun and get onto the ground. Fearing that deadly force would be necessary, Officer B drew his/her service pistol.

According to Officer A, as the officers approached and neared the gas station, he/she observed the Subject, matching the description of the suspect, armed with a black handgun. Officer A observed that the Subject was standing on the corner near the light post. Officer A stopped immediately and advised Officer B, "There he is. There he is." Officer A stopped their police vehicle approximately 30 feet away or two or three car lengths away from the Subject. Officer A felt that having distance and cover was the best thing for the officers at the time. Officer A popped out of the police vehicle, used the door as cover, and immediately drew his/her pistol.

In this case, the BOPC conducted a thorough review and evaluation of the reasonableness of Officers A and B's drawing and exhibiting of a firearm. The BOPC noted that the officers had observed the Subject armed with a handgun and believed it was reasonable for them to draw their service pistols.

As such, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC determined Officers A and B's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

- **Officer A** – (pistol, five rounds)

Volley One

Officer A observed that the Subject held the handgun pointed away from the officers and close to the Subject's chest. Officer A then observed that the Subject used the post as cover, leaned against it with his right shoulder, and pointed the gun out with the muzzle pointed at the officers. Officer A did not recall seeing any people or vehicles behind the Subject and attempted to shout, "Drop the gun," but it happened fast. Officer A then heard Officer B giving the Subject commands and observed the Subject fire the handgun at the officers. Officer A feared that he/she or Officer B may be shot or killed, so Officer A fired one round at the Subject from his service pistol.

Volley Two

According to Officer A, after his/her first volley of fire, he/she assessed the Subject's actions and believed that the Subject was continuing to shoot at the officers. In addition to fearing for Officer B's and his/her own safety, Officer A observed many people outside and feared the Subject was going to start shooting other people. Officer A fired four additional rounds at the Subject. Officer A stopped firing his/her service pistol when Officer A saw the Subject collapse and stop shooting. Officer A was also able to see that the Subject's handgun was in the slide lock position.

- **Officer B** – (pistol, five rounds)

Volley One

As Officer B was getting out of the car, he/she observed the Subject start shooting at Officer A and him/herself. Officer B heard more than one round being fired and observed the Subject holding his handgun and shooting at the officers. Fearing for his/her life, Officer B fired four to five rounds at the Subject. Officer B continued to fire because he/she observed that the Subject was still standing with his handgun pointed at the officers. Officer B was concerned about possible injuries to Officer A or injuries that he/she, and him/herself, might have incurred without noticing. Officer B assessed between his/her rounds in his/her first volley of fire and believed the Subject was still standing with the handgun pointed toward Officer B.

Volley Two

Officer B observed that the Subject was lying on the ground and the handgun was still in the Subject's hand. Officer B continued to perceive the Subject as a threat because the Subject still held the handgun. While on the ground the Subject continued to move a little bit, raised his right arm up, and pointed the handgun back towards Officer B. Fearing for his safety, Officer B fired one additional round at the Subject to stop the lethal threat. Officer B ordered the Subject to drop the handgun. The Subject eventually complied and threw the handgun and the knife in front of him.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Officer A and B's use of lethal force. The BOPC noted that the incident was dynamic and unfolded rapidly. Both officers were forced to make split-second decisions to protect themselves and citizens who were in the nearby area from the Subject, who presented a deadly threat. The Subject was armed with a handgun, and upon the arrival of Officers A and B to his location, leaned against a light pole. Both Officers A and B opined that the Subject was using the light pole as cover. The Subject fired his handgun at the officers, striking their police vehicle on the front passenger door. Officer A, in fear for his/her life and for the life of Officer B, fired his/her service pistol at the Subject. While continuing to assess, Officer A additionally feared for the safety of citizens in the area, and again fired his/her service pistol. Officer B perceived that the Subject was firing at both Officers A and B; therefore, Officer B fired his/her service pistol at the Subject. Officer B continued to assess and perceived that the Subject was still pointing his/her handgun at Officer B. Officer B fired his/her service pistol to protect his/her own life.

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 the Subject's actions presented an imminent threat of death or serious bodily injury, and that the use of lethal force would be objectively reasonable.

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