

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

**OFFICER-INVOLVED SHOOTING – 023-19**

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

Harbor                      5/27/2019

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

Officer A	6 years
Officer B	6 years, 8 months
Officer C	4 years, 6 months
Officer D	7 years, 4 months
Officer F	2 years, 2 months
Officer G	2 years, 2 months
Officer H	2 years, 2 months
Officer I	1 year, 10 months

**Reason for Police Contact**

Officers assigned to Harbor Area responded to multiple radio calls of an ambulance shooting. As officers drove to the locations of the calls, officers observed the Subject walking on the sidewalk armed with a rifle. The officers immediately stopped, exited their vehicle, and ordered the Subject to drop the firearm. The Subject ignored the officers' commands, ran, and pointed the rifle at them, resulting in an officer-involved shooting (OIS). The Subject was struck once by the gunfire but continued running and eventually discarded the rifle. The Subject continued running and responding officers caught up to him. A Non-Categorical Use of Force occurred, and the officers took him into custody.

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

Subject: Male, 23 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 May 5, 2020.

### **Incident Summary**

Communications Division (CD) broadcast a “shooting just occurred” call which was upgraded to an “ambulance shooting just occurred” call with possibly one victim down.

Officers A and B notified CD they were responding to the call with emergency lights and siren (Code 3) from the police station. The officers were in a marked black and white police vehicle equipped with a Digital In-Car Video System (DICVS) and ballistic door panels.

Officers A and B activated their Body Worn Video (BWV) and discussed the comments of the call while en route to the location. The officers had worked together for approximately one week and had been assigned to conduct crime suppression. During that time, they had discussed tactics, contact and cover roles, foot pursuit containment versus apprehension modes, and gang information. Additionally, the officers had also discussed different scenarios such as uses of force incidents, along with their roles and responsibilities regarding less-lethal use of force options and radio communication.

As multiple calls for service were being generated by residents, numerous Los Angeles Police Department (LAPD) uniformed personnel responded to the area.

CD broadcast that an additional shooting just occurred in the area.

Witness A reported that he/she was at his/her residence and was getting into a vehicle when he/she heard gunshots coming from the alley near his/her residence. Approximately 40 to 50 seconds later, Witness A observed a male in the parking lot of his/her apartment complex armed with a rifle and blood on his clothes. This prompted Witness A to call 911.

Witness A stated that he/she had gotten into the front passenger seat of the car, which was pulling out of the driveway as the male carrying the rifle walked quickly past them. Witness A also said that the male was as close as 2 feet away from him/her as he passed, and that the male appeared to be cocking the rifle, which was black in color.

CD broadcast a fourth update providing the additional information from Witness A.

Officers A and B arrived in the area of the incident. According to Officer A, the officers drove past the address of the initial radio call and did not observe any evidence of a shooting. Based on Officer A's knowledge of the area, Officers A and B decided to check the last radio broadcast address, where the reported suspect was last seen armed with a rifle. Officer A continued driving and turned toward that location. As the officers neared the address, they visually checked the alley and observed a police unit patrolling the alley. Officers A and B continued driving and then negotiated a left turn.

Officer A's BWV depicted him/her observing a male, later identified as the Subject, on the sidewalk, armed with a rifle. According to Officer A, not only did the Subject have a rifle, but he matched the description provided by the radio calls. The Subject was initially walking and then transitioned to running in their direction. Officer A stopped their police vehicle at a slight angle in the street and both officers immediately exited their respective doors. BWV footage depicts that by the time the officers exited their vehicle, the Subject was passing them.

As Officer A was nearing the trunk of the officers' vehicle, he/she could be heard on BWV giving the Subject commands. Officer A was heard telling the Subject, "Drop it. Drop it." The Subject ignored these commands, continued running, and, according to Officer A, raised the rifle in his/her direction.

BWV depicted Officer A discharging his/her pistol in three volleys while moving back and forth in the street. A total of eight rounds were fired.

The Subject's body movements with his rifle were not clearly captured on Officer A's BWV. This was due to several factors, the low light conditions in the area, the "blurring" effect created by the fast movements of the officer and the Subject, in addition to Officer A's flashlight shining into the lens of his/her BWV camera.

According to Officer B, he/she and his/her partner observed the Subject walking on the sidewalk of the street armed with a rifle.

Officer B's BWV depicts him/her exiting the passenger door of the officers' vehicle, unholstering his/her pistol, and ordering the Subject to drop the firearm. The Subject ignored the officers' commands and ran on the sidewalk.

Officer B again ordered the Subject to, "Drop it," and then fired his/her pistol in three volleys while moving on the roadway. As the Subject reached the driveway of an apartment complex, he paused slightly as Officer B fired his/her weapon.

Officer B's BWV depicted him/her firing an additional four rounds as he/she stood on the roadway. Officer B fired a total of 11 rounds.

Due to low light conditions in the area, Officer B's BWV was dark. This makes it difficult to observe all the details of the incident and the movements of the Subject as described by Officer B.

Officers A and B's BWV depict the Subject turn and run north into the parking lot of the apartment complex. The investigation revealed that the Subject discarded the rifle he had been holding over a chain link fence at the north end of the parking lot into the alley that runs east and west. Officers A and B did not follow the Subject through the parking lot. Instead, they ran to the corner of the street and observed the Subject as he jumped over the fence at the northeast corner of the apartment complex and ran onto the street.

The Subject then ran to the east sidewalk on the street and continued north. Officers A and B chased after him, along with Officers M and N who were just west of the other officers when the OIS occurred. Officers M and N remained involved in the foot pursuit for a short distance, but then ran to the alley at the direction of Officer B, to ensure the Subject's rifle was secure.

Officers A and B's BWV depicted them pursuing the Subject at a distance. The officers could see additional units north of them. At that point, Officer A yelled, "He's got a rifle," to the officers close to him/her.

Officer C's BWV depicted the Subject running to the sidewalk and then towards him/her. Officers C and D could be heard giving the Subject commands to stop and put his hands up. The Subject ignored these commands and continued running past the officers. Officers C, D, and I chased after the Subject on foot. Officer C caught up to the Subject and pushed him from behind, causing the Subject to fall face down onto the sidewalk. Officer H used body weight to control the Subject's legs as he/she searched the Subject's waistband for weapons. Within moments additional officers arrived and the Subject was taken into custody.

Officer I approached and placed his/her left knee on the Subject's right shoulder and his/her left hand on the Subject's left shoulder. Officer G used a firm grip to control the Subject's left arm, and Officer F applied body weight by placing his/her right knee on the Subject's lower leg to help control him until he was handcuffed.

The Subject continued to resist by keeping his right hand tucked beneath his body in an attempt to prevent the officers from handcuffing him. Officer C attempted to pull the Subject's right arm out but was having difficulty because of the Subject's continued resistance. Officer D, observing his/her partner having difficulty, used physical strength to pull the Subject's right arm from underneath his body and positioned it behind his back for handcuffing.

Sergeant C was in the area canvassing and heard the gunshots from the OIS, followed by the officers' broadcast. Sergeant C was the first supervisor to arrive at the location as the Subject was being taken into custody. Sergeant C directed officers to establish a crime scene and requested a Rescue Ambulance (RA) for the Subject. As Sergeant C provided supervision, he/she received information that the Subject had possibly shot someone prior to the OIS and that the victim had been transported to the hospital. Sergeant C directed Officers K and L to respond to the hospital to investigate further.

Once at the hospital, Officers K and L learned that a shooting had taken place and that the victim had died.

A murder was confirmed to have taken place at the initial radio call location prior to the OIS. The victim was transported to the hospital and was pronounced dead. The murder was investigated by Area homicide detectives. Evidence collected at the homicide scene and witness statements identified the Subject as the homicide suspect. As a result, the Subject was subsequently re-arrested and booked pursuant to Section 187 of the California Penal Code (CPC) - Murder.

Sergeants A and B were also in the area when they heard Officers A and B's broadcast. Sergeants A and B met Officers A and B in the area of the OIS. After confirming that the officers had been involved in an OIS, Sergeant A took possession of their BWV cameras. Sergeant B obtained a Public Safety Statement (PSS) from Officer A and Sergeant A obtained a PSS from Officer B. While separating and monitoring their respective officers, Sergeants A and B established a Command Post (CP). Sergeant A acted as the Incident Commander (IC), supervised the OIS scene, and ensured that inner and outer crime scenes were established. Sergeant A did so until the division Watch Commander relieved him/her as the IC. At that point the Watch Commander made all proper notifications to the Department Operations Center (DOC).

### **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 and 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 G and H's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers A, B, C, D, F, and I's tactics to warrant a Tactical Debrief.

#### **B. Drawing and Exhibiting**

The BOPC found Officers A, B, C, D, F, G H, and I's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officers C, D, F, G, H, and I's non-lethal use of force to be In Policy.

## D. Lethal Use of Force

The BOPC found Officers A and B' use of 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), 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:

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 the suspect's 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/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**

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

**Planning** - Officers A and B had worked together for approximately one week at the time of this incident. Officers A and B had been assigned to conduct crime suppression. During that time, they had discussed tactics, contact and cover roles, foot pursuit containment versus apprehension modes, and gang information. Additionally, they had discussed various scenarios such as use of force incidents, along with their roles and responsibilities regarding less-lethal options and radio communication.

While en route to the radio call, Officers A and B listened to the multiple updates from CD and discussed the comments of the call. The BOPC noted that Officers A and B may have benefitted from developing a more detailed tactical plan for this particular incident prior to arriving at the location. It was also noted, that while the BOPC would have been preferred that the officers had created a more specific plan

during this incident, the rapid escalation of the Subject pointing the rifle at the officers reduced their opportunity to do so once they arrived at scene.

In addition, Officers C, D, F, G, H, and I all responded to the ambulance shooting radio call and subsequent "Officer Needs Help, Shots Fired" request. As the responding officers searched the area and heard multiple radio broadcasts that officers needed help, they also heard unknown officers yelling that the Subject was in possession of a rifle. The responding officers then observed the Subject fleeing the location on foot. Not knowing the condition of the original officers who had requested for help, Officers C, D, F, G, H, and I immediately reacted to the Subject's actions during this rapidly unfolding and dynamic incident in order to bring an end to the incident, and increase their ability to locate any injured officers or citizens and render aid.

**Assessment** – Officers A and B first began to assess the incident as they responded to the shots fired radio call and discussed the known gang activity in the vicinity. The officers then observed the Subject walking in the area and assessed his appearance and recognized that he matched the suspect description previously broadcasted. The officers observed that the Subject was armed with a rifle, which they assessed as having superior firepower to their service pistols, to which they acted quickly and decisively. They interpreted the Subject as a violent suspect who may be willing to utilize the weaponry on them, as he had likely utilized the rifle to shoot the reported victim nearby. The officers continuously assessed the Subject's movements and direction of travel and made the decision to draw their service pistols as they believed the situation could escalate to one involving the use of deadly force.

As Officers A and B utilized verbal commands in an attempt to resolve the situation peacefully, they assessed the Subject's lack of cooperation and the deadly threat that he presented as he began to run in their direction while holding the rifle. When Officers A and B observed the Subject point the rifle in their direction, Officers A and B assessed that they were faced with an imminent threat of serious bodily injury or death. Officers A and B utilized lethal force to stop the Subject's actions. During the volleys of rounds being fired, which lasted approximately four seconds, Officers A and B continually assessed the Subject's actions, and when his movements indicated that he no longer posed a threat, Officers A and B stopped firing their service pistols.

In addition, Officers C, D, F, G, H, and I observed the Subject fleeing on foot in an attempt to evade capture. Officers C, D, F, G, H, and I assessed that the Subject was a violent fleeing suspect that, due to public safety concerns, had to be apprehended immediately. As Officers C, D, H, I, G, and F pursued the Subject on foot, they assessed whether the Subject continued to be armed, and when they did not immediately observe any weapons, they acted quickly and decisively to effect an arrest.

**Time** – Officers A and B were faced with a rapidly escalating incident when the Subject quickly ran toward them armed with a high-powered rifle. Although the officers' options were very limited, video evidence depicts that the officers used the "Distance + Time = Cover" concept when confronted by the Subject, who was running just feet from them on the sidewalk. The officers remained in the street and moved from vehicle to vehicle using them as cover while still maintaining a line of sight on the armed suspect and continually verbalized with him to surrender. The officers' belief of the criminal activity already conducted by the Subject at the location presented a significant concern for the safety of the community, as well as for all of the officers at scene. Officers A and B did not have the opportunity to utilize additional time, which may have allowed the Subject to escape into the community armed with a high-powered rifle.

In addition, Officers C, D, F, G, H, and I initially had not yet determined that the Subject was unarmed, thus they utilized distance to create additional time for the events to unfold as they verbalized with the Subject. The officers demonstrated restraint and discipline as they quickly redeployed and re-assessed the situation. Officers A, B, C, D, F, G, H, and I were in an open neighborhood surrounded by many occupied residences with limited options for cover. Additionally, having prior knowledge that suspects could either force their way into a nearby dwelling or find an associate location to hide within, the officers knew that if not immediately apprehended, the violent suspect may escape. This limited their ability to delay approaching the Subject and making the arrest.

**Redeployment and/or Containment** – Upon observation of the Subject's rifle, Officers A and B tactically redeployed from the police vehicle and moved to nearby cover behind parked vehicles as they verbalized with the Subject to submit to arrest. When the Subject ignored the commands and continued to close the distance between himself and Officers A and B, the officers moved from cover to cover as they maintained visual contact with the Subject. After the end of the OIS, Officers A and B did not pursue the Subject into the darkened parking lot, rather, they demonstrated situational awareness and discipline and redeployed away from the immediate vicinity and began to set up a containment via their hand-held radio.

In addition, Officers C, D, F, G, H, and I observed the Subject fleeing on foot. Due to the rapid escalation of the Subject's actions, the officers had a limited opportunity to utilize other options and instead initiated a foot pursuit after the Subject. The short duration of the incident did not allow for containment to be established prior to taking the Subject into custody. The BOPC was critical of Officers G and H's decision to utilize their police vehicle to block the path of the Subject. This tactic placed both Officers G and H in close proximity of the Subject, reduced their ability to react to the Subject's actions, and reduced their options to utilize their police vehicle as cover. It would have been preferred that Officers G and H had parked their vehicle further away, thus creating more distance between them and the Subject.

**Other Resources** – Numerous officers responded to the location in response to the initial radio call. Due to the sudden escalation of the incident by the Subject as he pointed the rifle at Officers A and B, the first broadcast from the officers for additional resources to their location was Officer A’s “Shots fired” broadcast. Officers A and B were aware that additional resources were already at scene and nearby. Officer A requested additional units for a perimeter for an outstanding suspect. The additional officers who responded to the location worked in cooperation to take the Subject into custody.

**Lines of Communication** – Officers A and B communicated with each other as they responded to the radio call. Officer B provided his/her partner pertinent information on CD updates, radio calls, locations, and the suspect description. Officers A and B also discussed the possible connection to a known criminal street gang at the location.

While canvassing the area, Officer A observed the Subject and immediately notified Officer B. After exiting the vehicle, Officers A and B continued to verbalize with the Subject in an effort to gain his compliance, but the Subject failed to drop the rifle as directed. The Subject continued to refuse to comply or verbally respond to the officers, even after the first volley of gunfire from the officers. The Subject responded by again pointing the high-powered rifle at the officers while he continued to flee on foot. Despite the base frequency being unavailable due to an unidentified officer having an open microphone, Officers A and B communicated to the additional officers at scene by yelling out that the Subject was armed with a rifle. This information was imperative to the safety of the other officers as the rifle afforded the Subject an extended range to fire upon the officers.

In addition, Officers C, D, F, G, H, and I were responding to a rapidly unfolding incident and had minimal time to discuss tactical roles but worked together to take the Subject into custody. The officers observed the Subject fleeing on foot and verbally communicated with each other and continued to order the Subject to submit to arrest. Officers C, D, F, G, H, and I coordinated with each other and took the Subject into custody.

The BOPC determined that Officers A, B, C, D, F, G, H, and I attempted to de-escalate the incident, but the Subject’s aggressive actions to evade detention, including his pointing of the rifle at Officers A and B, fleeing on foot, and his violent physical resistance prompted the officers to resort to both Lethal and Non-Lethal force on the Subject.

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

### **1. Tactical Planning**

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.

In this case, Officers A and B engaged in limited communication with each other to formulate a tactical plan to approach the Subject, in the event they located him. The officers engaged in basic planning prior to arriving at the location.

Although Officers A and B were tenured officers who had knowledge of the area, the BOPC would have preferred that the officers had taken the opportunity to plan a more coordinated effort to approach the Subject and take him into custody.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, the officers' actions were not a deviation from approved Department tactical training.

## **2. Code Six**

Officers A and B did not advise CD of their Code Six location upon arrival to the area of the radio call. The purpose of broadcasting a Code Six location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, multiple radio calls were generated within a two block radius and Officers A and B responded to the original radio call. The officers had knowledge that additional units were responding to the same location, and upon their arrival, they observed multiple units at various locations, including a supervisor. Moments after, Officers A and B located the Subject within the same area armed with a rifle, which required them to immediately tactically deploy from the vehicle.

Officers are required to balance officer safety considerations against the need to make a timely Code-Six broadcast. Officers must be afforded some discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code-Six broadcast.

The officers were faced with a rapidly unfolding situation and the BOPC discussed their preference that the officers place themselves Code Six upon arriving in the area. The BOPC also recognized that the divisions base frequencies contained heavy radio traffic due to multiple radio calls and also that an inadvertent open microphone temporarily prevented additional broadcasts. It

was also noted that the incident rapidly escalated for the officers due to the actions of the Subject.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were a substantial deviation, with justification, from approved Department tactical training.

### **3. Apprehension vs. Containment Mode/ Pursuing Armed Suspects**

Officers A and B engaged in a foot pursuit of a suspect armed with a rifle, in apprehension mode.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect.

It is the BOPC's expectation that officers are decisive in their actions during a rapidly unfolding, life-threatening situation while taking into consideration that police work is inherently dangerous.

In this case, Officers A and B were in apprehension mode of an armed suspect. The officers remained on the street and utilized the parked vehicles as cover as the suspect ran on the sidewalk. Officers A and B maintained a line of sight with one another and remained close enough to render immediate aid, if necessary.

The BOPC examined Officers A and B's decision to be in apprehension mode of an armed suspect and determined that it was vital for the officers to apprehend the suspect who was armed with an AR15 style and refusing to disarm himself. The BOPC opined that the officers' perception of the criminal activity already conducted by the Subject at the location presented a significant concern for the safety of the community, as well as for Officers A and B, in addition to the other officers at scene. The officers did not have the time to allow for the Subject to escape into the community armed with a high-powered rifle. The BOPC noted that the public safety concerns of a violent suspect armed with a rifle, within an area in which many citizens reside, created an exigent circumstance that had to be quickly resolved.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were reasonable and their decision to pursue the Subject in apprehension mode was in the best interest of public safety and, therefore, was a substantial deviation, with justification, from approved Department tactical training.

### **4. Utilization of Cover**

Officers A and B engaged in a foot pursuit with only the benefit of cover from vehicles parked on one side of the street between them and the Subject as he ran on the sidewalk armed with a weapon system similar to an AR15 rifle.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, Officers A and B attempted to contain the Subject in an attempt to apprehend him as he fled on foot through a neighborhood armed with a rifle. Officers A and B utilized a singular row of parked vehicles for cover. The BOPC would have preferred that the officers had utilized the opposite sidewalk, which would have provided them an additional row of parked vehicles and increase the distance between the officers and the Subject.

Based on the totality of the circumstances, the BOPC determined that in this particular circumstance, Officers A and B's actions were not a deviation from approved Department tactical training.

#### **5. Tactical Vehicle Deployment (Substantial Deviation – Officers G and H)**

Officers G and H utilized their police vehicle in an attempt to block the path of the Subject as he fled on foot from pursuing officers. The positioning of the police vehicle when conducting a pedestrian stop is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, Officers G and H placed themselves at a significant tactical disadvantage by positioning their police vehicle in close proximity, without cover, to the possibly armed suspect.

The BOPC considered the circumstances surrounding H's vehicle deployment and positioning while confronting a suspect who was thought to be armed. Officer H articulated that he/she believed that he/she was deploying on an active shooter. Officer H's decision to park his/her vehicle in close proximity to an armed suspect significantly increased the risk to both him/her and his/her partner and was not consistent with Department tactical training.

Officer G observed the Subject holding his left hand to his right waistband and opined that the Subject was still armed with a firearm. The position and angle of the police vehicle relative to the Subject's location reduced the officers' ability to react to the Subject's actions and reduced their ability to utilize the police vehicle as cover as the Subject was running toward them being pursued by other officers. The BOPC was critical of the officers' decision and opined that the officers placed themselves at a significant tactical disadvantage, which posed an unnecessary risk to the officers.

The BOPC would have preferred that the officers displayed greater control of the police vehicle and had stopped further back from the Subject. Positioning the vehicle further back and at a more perpendicular angle would have afforded the officers additional time and distance to assess the rapidly unfolding tactical situation.

Based on the totality of the circumstances, the BOPC determined that Officers G and H's positioning of their police vehicle, adjacent to the Subject's position, was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
  1. **Profanity** – Officers A, D, and F utilized profanity while in foot pursuit and when handcuffing the Subject. The officers were reminded that the use of profanity may unnecessarily escalate the situation and is not in conformance with the Department's expectations of an officer's conduct.
  2. **Simultaneous Commands (Non-Conflicting)** – The investigation revealed that Officers A and B both gave the Subject simultaneous commands. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.
  3. **Drawing Service Pistol While Seated in Vehicle** – The investigation revealed that Officer D and H both drew their service pistols while still seated in their separate police vehicles as they drove during the incident. Although the officers heard gunshots, the officers were reminded that drawing a service pistol while seated in a police vehicle can increase the chances of an unintentional discharge.
  4. **Running with Service Pistol** – The investigation revealed that during the incident, Officers B, C, D, F, G, I, and N ran with their service pistols drawn. These officers were in the same area with each other. The officers were reminded that there is a heightened concern for an unintentional discharge when running with a drawn service pistol.
  5. **Crossfire** – The investigation revealed that Officers A, B, E, F, and N allowed the muzzles of their service pistols to momentarily point in the direction of other officers, creating the potential for a crossfire situation. The officers were reminded of the importance of always being aware of their muzzle direction.
  6. **Stepping on Limbs** – The investigation revealed that after the Subject was placed in handcuffs, he was laying on the ground in a supine position. As officers were waiting the arrival of a rescue ambulance, Officer I momentarily stepped on the Subject's foot. According to Officer I, the Subject was acting

aggressively and began moving his feet around. Officer I intentionally stepped on the Subject's foot to prevent him from kicking officers. Officer I was reminded that stepping on a suspect's limbs may result in injury to the suspect, or cause an officer to lose balance and fall. It may also give the perception of a lack of training by the officers to the general public.

The above 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 are 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.

In conducting an objective assessment of this case, the BOPC determined that Officers A, B, C, D, F, and I's tactics did not substantially deviate from approved Department tactical training.

In conducting an objective assessment of this case, the BOPC determined that Officers G and H's actions were a substantial deviation, without justification, from Department policy and tactical training, thus requiring a finding of Administrative Disapproval.

The BOPC found Officers G and H's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers A, B, C, D, F, and I's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, as the officers approached the area of the shots fired radio call in their police vehicle, he/she observed the Subject on the sidewalk running toward his/her location. Officer A observed that the Subject was holding a rifle in a port arms position with his right hand on the stock and his left hand near the barrel of the gun. Fearing that the situation may escalate, Officer A exited his/her police vehicle and drew his/her service pistol.
- According to Officer B, he/she heard Officer A state, "*Oh, there he is.*" Officer B then observed the Subject walking on the sidewalk armed with a rifle. Officer B exited the police vehicle, drew his/her service pistol, and began giving the Subject verbal commands to, "*Stop, drop the gun.*"

- According to Officer F, he/she drew his/her service pistol at the location of the original radio call due to the comments of the radio call stating that there was a shooting at the location and his/her belief that a suspect may be at scene armed with a gun. Officer F cleared the location, looking for the suspect.
- According to Officer G, he/she drew his/her service pistol twice during the incident. Due to the nature of the radio call being shots fired, Officer G initially drew his/her service pistol upon his/her arrival as he/she searched the area.

According to Officer G, the second time he/she drew his/her service pistol was when he/she observed the Subject holding his waistband as he fled from the officers on foot. Officer G feared the Subject was armed and may fire at him/her, and in response, Officer G drew his/her service pistol.

- According to Officer H, due to the comments of the radio call indicating that shots had been fired and also due to Officer H hearing shots being fired in the area, Officer H drew his/her service pistol while seated in the police vehicle and canvassing the area.
- According to Officer I, he/she observed the Subject, who matched the description of the possible shooting suspect, running in his/her direction and away from officers who were pursuing him on foot. Fearing the Subject was going to shoot him/her, Officer I exited his/her police vehicle and drew his/her service pistol.
- According to Officer C, he/she observed the Subject exit an alley and run toward him/her on the sidewalk. Based on the comments of the shots fired radio call and believing the Subject matched the description of the suspect, Officer C drew his/her service pistol.
- According to Officer D, Officer C made contact with a family who was sitting on their balcony and asked them if they heard someone firing a gun. As Officer C was speaking to the family from the police vehicle, Officers C and D heard approximately eight to ten gunshots. After hearing the gunshots and while still seated in his/her police vehicle, Officer D drew his/her service pistol and had it down at his/her side.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officer A and B's drawing and exhibiting. The BOPC noted that Officer A and B were faced with a rapidly unfolding situation during when they observed a suspect armed with a rifle.

In addition, the BOPC reviewed Officers C, D, F, G, H, and I's drawing and exhibiting and noted that they all responded to the Ambulance Shooting radio call and subsequent Shots Fired, Officer Needs Help request. As they were responding, the officers observed the Subject fleeing the location on foot holding his waistband, a common tactic of armed suspects. The BOPC indicated it was reasonable for the officers to believe the situation may escalate to the use of deadly force based on the

Subject's actions of possibly being involved in a shooting and potentially being armed. Officers were also advised by Officers A and B via radio transmission that the suspect was armed with a rifle.

As such, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, F, G, H, I, 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 found Officers A, B, C, D, F, G, H, and I's drawing and exhibiting of a firearm to be in policy.

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

- **Officer C – Takedown and Body weight**

According to Officer C, he/she observed the Subject exit an alley and run on the street. Officer C gave the Subject several commands to stop and began to pursue the Subject on foot. When the Subject ignored his/her commands, Officer C conducted a one-officer takedown and then placed his/her body weight on the Subject to control his movements.

- **Officer F – Body weight**

According to Officer F, he/she observed the Subject running from a group of officers. The Subject then ended up on the ground, and Officer F assisted by placing his/her body weight on the Subject to control his movements.

- **Officer G – Firm Grip**

According to Officer G, he/she observed the Subject run past his/her police vehicle. Officer G then exited his/her vehicle, and once he/she approached the area, he/she observed the Subject on the ground with officers attempting to handcuff him. Officer G assisted the officers by utilizing a firm grip on the Subject's left arm to help control his movements.

- **Officer H – Body weight**

According to Officer H, he/she observed the Subject running from a group of officers. The Subject then ended up on the ground, and Officer H assisted by placing his/her body weight on the Subject to control his movements as other officers handcuffed the Subject.

- **Officer I – Body weight**

According to Officer I, while he/she was in his/her police vehicle, he/she observed the Subject running in his/her direction, being pursued on foot by officers. Officer I exited his/her police vehicle and began to pursue the Subject on foot and broadcast his/her location. Officer I then observed the Subject prone out on the ground and assisted the other officers in taking him into custody by placing his/her left knee on the Subject's right shoulder and his/her left hand on the Subject's left shoulder to control his movements.

- **Officer D – Firm Grip and Physical Force**

According to Officer D, he/she observed the Subject run out of an alley and fall to the ground. Officer D observed the Subject get up and run on the sidewalk. Officer D utilized parked cars as cover as he/she paralleled the Subject from the street until he/she observed a police vehicle approach and position their vehicle in the Subject's path. Officer D then went around the police vehicle and observed that the officers had the Subject detained on the ground and were struggling to handcuff his arms. Officer D approached and utilized a firm grip on the Subject's right arm and physical force to pull the Subject's right arm out from under his body so officers could complete the handcuffing process.

The BOPC reviewed each application of non-lethal force utilized by Officers C, D, F, G, H, and I. The Subject escalated the incident by fleeing on foot from the officers and refusing to submit to arrest. Throughout the incident, the officers verbalized with the Subject, who subsequently physically resisted the officers' attempts to detain him. All officers used a minimum level of force to overcome the Subject's physical resistance and handcuff him.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C, D, F, G, H, and I, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Officers C, D, F, G, H, and I's non-lethal use force to be objectively reasonable and In Policy.

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

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

**Volley One:** According to Officer A, he/she observed the Subject running on the sidewalk armed with a rifle. Officer A gave the Subject commands to, "*drop it, drop it.*" The Subject ignored the commands and as he continued to run on the street, he turned his head in the direction of the officers as he pointed the rifle at Officer A. Fearing the Subject was going to shoot him/her, Officer A attempted to maintain a line of sight on the Subject as he/she paralleled him at a fast pace and simultaneously fired two rounds from his/her service pistol to stop the lethal threat.

**Volley Two:** According to Officer A, he/she assessed and observed his/her first rounds did not stop the Subject's actions. Officer A observed that the Subject continued to run on the sidewalk while pointed the rifle at the officers. Officer A ran a little bit to try to reacquire the Subject's position from behind the car and observed the Subject point the rifle at him/her again which prompted Officer A to fire two to three additional rounds from his/her service pistol at the Subject to stop the lethal threat.

**Volley Three:** According to Officer A, he/she assessed and observed the Subject continued to flee on foot. Officer A lost sight of the Subject behind the parked vehicles and continued to move in the street to see the Subject's actions. Officer A observed the Subject turn once again and point the rifle at the officers, which prompted Officer A to fire two to three rounds from his/her service pistol at the Subject to stop the lethal threat. Officer A observed the Subject fall to the ground, got back to his feet, and continued to flee in the alley still armed with the rifle. Officer A observed the Subject look back over his right shoulder and point the rifle back towards the officers as he fled on foot.

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

**Volley One:** According to Officer B, he/she observed the Subject began to run in his/her direction armed with the rifle while he/she continued to give him commands to stop. The Subject ignored the commands and continued running on the sidewalk. As the Subject ran past Officer B, he/she observed the Subject look back towards him/her and with his right arm extended out, the Subject pointed the rifle at Officer B. In fear that the Subject was going to shoot him/her, Officer B fired seven rounds from his/her service pistol at the Subject to stop the lethal threat.

**Volley Two:** According to Officer B, as he/she paralleled the Subject from the street, he/she observed the Subject continued to flee on the sidewalk into the mouth of an alley. Officer B gave the Subject verbal commands to stop and drop his gun. He/she then observed the Subject turn back in his/her direction and raise the barrel of the rifle up and point it at him/her. Fearing he/she was about to be shot, Officer B fired an additional four rounds from his/her service pistol at the Subject to stop the lethal threat.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of both officers' use of lethal force. The BOPC noted that this was a dynamic and rapidly unfolding incident where the Subject pointed a rifle at the officers, causing Officers A and B to fear for their lives. Both officers were forced to make a split-second decision to protect themselves and nearby citizens from the deadly threat. Specifically, the BOPC noted that the incident was a stressful situation wherein the officers identified the Subject's weapon as an AR-15 style rifle capable of firing numerous rounds and with superior firepower to the officers' service pistols.

According to both Officer A and B, the Subject pointed the rifle at them throughout the incident, prompting them to discharge their service pistols to protect their lives.

The BOPC noted that the Subject ran from the officers while holding onto the rifle. The FID investigators presented that the Subject maintained possession of the rifle for approximately 159 feet before he discarded it over the chain link fence. The Subject had ample opportunity to disarm himself and surrender to the officers.

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

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