

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

OFFICER-INVOLVED SHOOTING – 024-20

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Southwest	6/1/20		
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Officer(s) Involved in Use of Force	Length of Service
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Detective A	22 years, 3 months
Detective B	23 years, 4 months
Detective C	15 years, 4 months
Officer A	13 years, 4 months
Officer B	5 years, 4 months

Reason for Police Contact

Plain-clothed observed three men at a gas station. One of the men pointed a handgun at the officers, causing them to leave the immediate area and broadcast a request for additional units. As additional plain-clothed officers arrived at the gas station, two of the subjects fired handguns at the officers, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject 1: Male, 19 years of age (Wounded).			
Subject 2: Male, 18 years of age (Not Hit).			
Subject 3: Male, 20 years of age (Not hit).			

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 4, 2021.

Incident Summary

On June 1, 2020, Detective A, was the Officer in Charge of a specialized unit. His immediate supervisor, Lieutenant A, was deployed to oversee another Detail. Lieutenant A contacted Detective A by phone and instructed him/her to use the personnel in his/her unit to monitor the area for looters and other criminal activity.

Lieutenant A also directed Detective A to complete an "Operation Plan" and submit it to the Watch Commander.

Prior to leaving the station, Detective A completed a two-page Operation Plan.

Detective A briefed the unit. Present for the briefing were Detectives B and C, as well as Officers A, B, C, and D.

According to Detective A, the unit typically deploys in four vehicles, but he/she consolidated the unit into two vehicles in case the unit encountered a situation that required them to take immediate action. Detective A assigned Detective B and Officers A and D to ride with him/her in a van while Detective C and Officers B and C rode together in a separate vehicle, a Nissan.

According to Detective A, the unit typically used a tactical frequency on the police radio during surveillance operations, but none were available on the night of the incident because they were all being utilized for the various operations. As such, Detective A directed the unit members to use a Fallback Frequency (hereafter Fallback).

According to Detective A, personnel in the Nissan would conduct mobile surveillance while personnel in the van would be responsible for contacting any potential suspects, if necessary.

Detective A was the driver of the van and attired in plainclothes. Detective B was seated in the front passenger seat and was wearing a tactical vest over plainclothes. Officers A and D were also wearing tactical vests over plainclothes. They were seated in the rear passenger compartment of the van. Officer D was assigned to monitor the Base Frequency (hereafter Base) while Officer A monitored Fallback. According to Detective B, they were monitoring three frequencies.

Officer B was the driver of the Nissan, Officer C was in the right front seat, and Detective C was in the left rear seat. They were dressed in plainclothes and had their tactical vests immediately accessible within the passenger compartment.

Detective C was assigned to monitor Base while Officer C monitored Fallback. In the event it became necessary to take police action, Officer C and Detective C would assist

the personnel in the van by acting as an arrest team while Officer B handled radio communications.

After the unit was deployed to the field for approximately 30 minutes, the officers in the Nissan were stopped in the number two lane of a major north/south street for a red light. Through his/her open window, Officer B observed a silver Hyundai pull alongside him/her in the number one lane. Although the Hyundai's windows were tinted, Officer B noticed that the right front passenger, Subject 1, and the driver, Subject 3, were looking into the Nissan. Officer B also noticed movement in the right rear seat where a third man, Subject 2, was seated.

According to Officer B, when the light turned green, Subject 3 drove north and then turned east into a gas station. As the Nissan approached the gas station, Officer B observed that all three men were outside of the Hyundai on the passenger side.

Security video footage from the gas station shows that the Hyundai entered the station and parked next to a gas pump located on the east side of the premises near the convenience store. Subjects 1, 2, and 3 then exited the vehicle and stood along the passenger side. Subjects 1 and 3 were both wearing white tops with long sleeves, light-colored Subject 3 jeans, and black and white shoes.

Officer B entered the gas station parking lot and drove south between the gas islands so that they could observe the individuals and assess the need for additional monitoring.

As Officer B drove past the Hyundai, he/she noticed that the men were looking at him/her, and he/she believed they recognized him/her from the stoplight. Officer B and Detective C indicated the two groups made eye contact, but no words were exchanged. Officer B continued south through the parking lot before turning west and stopping in the southernmost driveway onto the street, waiting for traffic to clear.

Security video footage shows that Subject 3 looked in the direction of the Nissan as Officer B drove through the parking lot. Subject 3 then opened the Hyundai's driver door and activated the trunk release before opening the trunk and arming himself with a .45 caliber semiautomatic pistol with a laser sight. With the pistol in his left hand, Subject 3 walked toward the Nissan.

According to Officer B, while stopped at the south driveway and looking through his/her rearview mirror, he/she observed Subject 3 reach into the trunk. Officer B, Detective C, and Officer C each reported hearing Subject 3 chamber a round. According to Officer B, his/her partners simultaneously alerted each other that one of the subjects was now armed with a firearm.

Detective C looked over his/her shoulder and observed Subject 3 holding the handgun. According to Detective C, he/she told Officer B to drive away. As Officer B did so, Detective C and Officer C observed Subject 3 pointing the gun at them with the laser sight activated. Officer B believed driving away from the subjects would de-escalate the

situation and would allow them time to make radio broadcasts and obtain additional resources before re-approaching the subjects.

Security video shows that Subject 3 chambered a round and activated the laser sight before he pointed the pistol in the officers' direction. Subject 3 continued pointing the handgun toward the officers as he moved north and secreted himself behind a metal pillar adjacent to the Hyundai.

As Officer B drove north on the street, he/she observed headlights behind him/her. Officer B mistakenly believed the subjects had entered the Hyundai and were following them. In response, after determining that there was no cross-traffic, he/she drove through the red light north of the gas station to evade the subjects. Detective C then advised the subjects were still at the gas station and had not followed them.

Officer B drove under a freeway overpass and conducted a U-turn. He/she positioned the Nissan along the west curb of under an overpass. Officer C indicated he/she could see the west side of the gas station parking lot.

Detective C told Officer C to contact the other unit members on Fallback. According to Officer C, he/she broadcast for the personnel in the van to respond to the area north of the gas station.

The officers in the van were several blocks away when Officer A, who was monitoring Fallback, heard Officer C broadcast for them to respond. Detective A also heard the broadcast and directed Officer A to turn up the volume on his/her radio. Both Officer A and Detective A noted that Officer C seemed anxious or distressed. Officer D, who was monitoring Base at the time, also heard Officer C's broadcasts on Fallback. According to Officer D, he/she turned down the volume on his/her radio, so the officers could better hear what was being broadcast on Fallback.

While under the overpass, Officer B, Detective C, and Officer C donned their tactical vests which they had pre-positioned next to them inside of the vehicle. Additionally, Detective C unholstered his/her handgun and maintained it in his/her right hand with the barrel pointed to the left, toward the door, while he/she held his/her police radio in his/her other hand. Detective C then broadcast a request for backup on the Base frequency, and gave the officers' location. As a result of Officer D's radio being turned down, Detective C's backup request, and all additional broadcasts over Base, were not heard by the personnel in the van.

In response to Officer C's broadcast, Detective A began to drive toward their location.

While en route, Officer A made several attempts to contact Officer C on Fallback but did not receive a response.

According to Officer C, when he/she made his/her initial broadcast, he/she believed the van was approximately 2.5 miles away. Unbeknownst to him/her, the van was approximately a half mile away. Within seconds of donning his/her tactical vest, Officer

C observed the van driving north nearing the gas station. The van arrived sooner than Officer C anticipated. Upon seeing it, he/she broadcast there was a silver vehicle at the gas pumps and a male wearing a white sweatshirt in the vicinity.

Twelve seconds after his/her backup request, Detective C keyed the microphone on his/her police radio. In the background, Officer C can be heard broadcasting, "415 man with a gun! White shirt. He's got a gun. White sweatshirt," over Fallback. Simultaneously, Detective C broadcast over base, "White shirt. White sweatshirt." before gunshots were heard in the background. Detective C immediately broadcast, "Shots fired! Shots fired!"

Security video footage shows, as the van drove into the parking lot, that Subject 3 was walking toward the cashier's window while gripping the handgun with his left hand. Upon noticing the van, Subject 3 removed the handgun from his pants as he moved to the rear of the Hyundai. Subject 3 then raised the pistol, activated the laser sight, and fired one round at the officers, as the van came to a stop.

According to Detective B, as the van entered the parking lot, he/she began to open his/her door while looking for his/her partners in the Nissan. He/she then observed Subject 3's laser, followed by the sound of a gunshot, and an impact to the van.

At the other end of the laser, Detective B saw Subject 3, who he/she described as wearing a white shirt and light-colored jeans. Subject 3's round struck the right front door as Detective B was opening it.

According to Detective A, immediately upon entering the parking lot, he/she observed a male in a white long-sleeved hoodie pointing a handgun at him/her. The gun was equipped with a red laser that momentarily blinded him/her.

Detective A then observed a muzzle flash and heard the sound of a bullet impacting the van. Detective A considered driving out of the parking lot but realized Subject 3 was already firing at them and driving away would place them in a more dangerous position. Detective A stopped the van facing southeast, toward the convenience store.

Security video footage shows, after firing the first round of this incident, Subject 3 continued moving toward the rear of the Hyundai. Simultaneously, Subject 2, who was standing near the right rear door, moved to the back of the Hyundai and removed a .38 caliber revolver from his right front pant. While Subject 3 lowered himself near the right rear corner of the Hyundai, Subject 1 ran past him and continued toward the street.

According to Officer D, he/she was staged inside of the van, near the sliding door, when he/she observed Subject 3 standing in a shooting stance pointing a silver handgun at him/her. Officer D could see the "red dot" on Subject 3's handgun pointing at his/her (Officer D's) face. Officer D took cover behind the sliding door to avoid being shot. As he/she did so, he/she heard a bullet impact the side of the van. Officer D fell onto the floor behind the driver's seat.

The available evidence indicates that Officer D was struck by the second round fired by Subject 3. That round struck the passenger-side door post/pillar of the officers' van, hit the side of the dashboard, and ricocheted at a downward angle. Meanwhile, Officer D had opened the van's sliding door and was dismounting. The evidence indicates that the round entered the left side of Officer D's pants, striking his/her outer left thigh before exiting the pants. The expended bullet was recovered on the ground between gas pumps.

With respect to the first round fired by Subject 3, the bullet went through the van's front passenger door and then lodged in the sliding door behind it, without entering the van's passenger cabin. There was no shrapnel caused by the initial round, and security video and physical evidence appeared to refute the possibility that Officer D was struck by shrapnel, gunfire from Subject 2's revolver, or friendly fire.

According to Officer A, he/she observed two males standing near the Hyundai; both men were wearing white tops. As the van continued traveling through the parking lot, he/she observed Subject 3 pointing a stainless steel handgun toward the van. In response, Officer A unholstered his/her pistol. As the van slowed to a stop, he/she heard gunshots being fired in his/her direction. Officer A then observed Officer D fall backward and did not know if he/she had been struck by gunfire. According to Officer A, Officer D was down, and nobody was returning fire. He/she believed firing at Subject 3 would force Subject 3 to stop shooting into the van, so he/she and his/her partners could safely exit.

From a kneeling position, Officer A utilized a two-handed grip and fired his/her first round at Subject 3 through the side window of the van, causing it to shatter. As he/she fired, Officer A continued hearing bullets impact the van. Officer A continued to fire as he/she observed Subject 3 move to the rear of the Hyundai.

Security video footage shows that after firing several rounds at Subject 3, who was near the Hyundai, Officer A turned to his/her right (southwest). At that point, additional muzzle flashes can be seen coming from Officer A's pistol as Subject 1 ran southwest across the parking lot toward the street.

According to Officer A, he/she specifically recalled observing two male subjects who were both wearing white shirts. He/she was not aware of Subject 2 (who was wearing an orange shirt) until after the OIS. Officer A only recalled firing at Subject 3 while he was near the Hyundai. Regarding Subject 1, Officer A stated, "At one point I did see the second subject that wasn't holding the gun with the white shirt. I see him go run -- he starts running in a westbound direction towards [the street]. And I'm still receiving rounds from that direction I last saw the initial [subject] with the gun, so I'm firing back."

According to Detective B, he/she unholstered his/her pistol after the van came to a stop. He/she observed the subject who fired at him/her (Subject 3) run south to the rear of the Hyundai. Detective B then observed Subject 1, who he/she mistakenly believed was Subject 3, emerge from behind the Hyundai and continue running southwest toward the

street. According to Detective B, "I saw the [subject] run to the back of the -- the vehicle out of my view, came back into my view. I was almost like he had dipped down behind it and came back up and he started running west and sort of southbound across the parking lot towards [the street]."

Detective B exited the front passenger seat and utilized a one-handed grip to fire a single round at Subject 1 as he ran across the parking lot. According to Detective B, "At that time, I was now getting out of the vehicle again. And as he was running his right arm was outstretched back towards me and there was like a little stutter step and I thought he was going to kind of turn again and engage us and I -- I fired one round at that time." Detective B described the subject who shot at him/her as wearing a white top and light-colored or faded Subject 3 pants. According to Detective B, at the point he/she fired, he/she was not aware that there was more than one subject at scene.

Security video footage showed that, simultaneous to Detective B and Officer A firing their pistols at Subject 1, Subject 2 raised himself from behind the trunk of the Hyundai and fired two rounds toward the van in rapid succession.

After firing at Subject 1, Officer A stopped firing, which allowed Officer D to sit up, open the van's sliding door, and exit. Security video footage showed, as Officer D exited, Subject 3 stepped out from behind the Hyundai's trunk, activated the laser sight on his pistol and fired an additional round in Officer D's direction. Subject 3's laser could be seen on the right front door of the van as Officer D was exiting.

After Subject 3 fired his first round as the van initially pulled into the gas station, he attempted to fire an additional round, but his handgun malfunctioned. Subject 3 cleared the malfunction before later firing a second round. He then experienced and cleared a second malfunction.

Security video footage showed that once Officer D was out of the van, Officer A raised his/her pistol and fired a second volley of five rounds from his/her position in the van. He/she fired these rounds toward Subject 3 who was positioned near the Hyundai. According to Officer A, he/she fired these rounds when he/she heard additional gunfire coming from the rear of the Hyundai. Officer A explained these rounds were aimed at Subject 3's upper torso and head because the rest of his body was concealed behind the Hyundai. Once his/her pistol was out of ammunition, he/she immediately lowered him/herself into a prone position on the floor and utilized the van for cover as he/she completed a reload. Officer A was not aware that he/she had fired in two distinct volleys, or that he/she ever fired west of Subject 3's position around the Hyundai.

Security video footage showed that at the point Officer A fired his/her second volley, Subject 3 was standing on the passenger side of the Hyundai with his pistol pointed west toward Detectives A and B.

Immediately prior to the OIS, while still parked under the overpass, Officer B observed the van driving north. He/she observed the van turn into the gas station parking lot and

then heard gunfire. Officer B drove the Nissan south on the street. As he/she did so, he/she observed Subject 1 running through the gas station toward the street with a gun in his right hand.

As Officer B drove the Nissan south, Detective C broadcast, "Shots fired," on Base frequency. He/she then observed Subject 1 run onto the street and told Officer B, "Go get him. Go get him."

Officer B considered that Subject 1 was armed and fleeing into a residential area. Officer B followed Subject 1 in containment mode so that Subject 1 would not escape and enter someone's home, or otherwise harm a member of the community. According to Officer B, he/she intended to continue following Subject 1 from a safe distance in his/her vehicle if he stayed on the street, but Officer B would have exited the vehicle and followed Subject 1 on foot if he turned onto a residential street.

Security video footage showed that as the Nissan traveled south, Subject 1 ran west from the parking lot and onto the street where he turned south. After taking approximately five steps, he suddenly turned to his left and onto the sidewalk where he left the camera's view. Approximately two seconds later, Subject 1 re-appeared running north on the sidewalk toward the gas station as the Nissan came to a stop in the northbound number two lane.

According to Officer B, as he/she stopped the Nissan, Subject 1 looked to his right and into his/her vehicle before turning counterclockwise to the north. As he did so, Officer B saw Subject 1 pointing a small black handgun at him/her. Officer B believed Subject 1 was about to shoot him/her and his/her partners. As the Nissan came to a stop, he/she unholstered his/her pistol with his/her right hand. While still seated in the driver's seat and with the Nissan completely stopped, he/she utilized a one-handed grip and fired at Subject 1 through the open driver's window.

The investigation determined that Subject 1 was not armed with a handgun during this incident.

Officer B recalled firing two or three rounds during this incident and believed the Nissan was stopped at the time. Additionally, at the point he/she recalled firing, Officer B estimated that Subject 1 was approximately two arm lengths away from him/her.

After examining the physical evidence and security video footage, Force Investigation Division (FID) investigators determined Officer B fired a total of six rounds. Security video footage showed approximately four muzzle flashes emanating from the driver's window of the Nissan as it slowed to a stop. Two additional muzzle flashes were then seen once the Nissan was stopped. At the point Subject 1 turned and began running north, he was outside of the camera's view. Although Subject 1's exact location at that point could not be identified, FID investigators determined Subject 1 was no closer than approximately 15 feet to the Nissan.

According to Detective C, he/she exited the car and believed he/she ordered Subject 1 to "Stop." Subject 1 took another step while lifting his shirt with his left hand and reaching into his waistband with his right hand. Detective C mistakenly believed Subject 1 was the person who pointed the gun at him/her earlier and believed Subject 1 was now reaching into his waistband to arm himself with the gun he/she had seen earlier. Detective C stated, "I got out. I believe I yelled, 'Stop.' The [subject] ran, took another step, almost like dipped down, reached with his shirt, lifted up his shirt, reached for the waistband, and then began to come up as if he was drawing from his waistband and was going to shoot from over his shoulder." Detective C realized Officer B would likely be the first person Subject 1 would shoot. While holding his/her police radio in his/her left hand, Detective C utilized a one-handed grip with his/her right hand and fired one round.

Detective C believed Officer B drove the Nissan ahead of Subject 1 before stopping the car in the northbound number two lane. Security video footage showed that Subject 1 remained ahead of the Nissan until he turned around.

According to Detective C, immediately after he/she fired his/her first round, Subject 1 unexpectedly turned around and moved north on the sidewalk. As Subject 1 was nearly perpendicular to him/her, Detective C again observed Subject 1 look in his/her direction while reaching back into his right front waistband area with his right hand, causing him/her to believe Subject 1 was still attempting to arm himself. Detective C utilized a one-handed grip and fired a second time.

According to Detective C, when Subject 1 continued into the parking lot, he looked over his right shoulder while still reaching into his right front waistband area. Detective C believed Subject 1 was still attempting to arm himself. Detective C maintained a one-handed grip and fired a third round at Subject 1 before following him into the parking lot with Officers B and C.

Upon analyzing the video and physical evidence, FID investigators determined that a total of nine rounds were fired by Detective C and Officer B. These rounds impacted a metal rolling door attached to the front of a closed business. This information is consistent with Officer B having fired six rounds and Detective C having fired three rounds at Subject 1 while in or near the Nissan.

According to Detective A, after stopping the van, he/she exited, unholstered his/her pistol and moved toward the street with Detective B. He/she then observed Subject 1 run toward the street where he/she briefly lost sight of him. Detective A mistakenly believed Subject 1 was the same subject who had just fired at him/her. Detective A heard gunfire coming from the street, south of the gas station, and believed Subject 1 was either shooting at him/her or at other people in that area. Detective A then observed Subject 1 run back toward the gas station from the street.

According to Detective A, at the time he/she heard gunfire coming from the street, he/she was unaware the unit members in the Nissan had arrived and were engaging Subject 1.

According to Detective A, as Subject 1 ran toward the Hyundai, he/she observed the barrel of a handgun in his right hand. As Subject 1 continued running, Detective A saw him look in his/her direction. Detective A stated, "I figured this guy's locating me right now. He wants to know where I'm at. He's going to shoot at me either from there or he's going to get behind the car and start shooting like he did earlier."

After making the above observations, Detective A observed Subject 1 stumble and heard him make a grunting noise and scream. Security video footage showed that after taking four steps into the parking lot, Subject 1 stumbled forward before he caught himself with his hands and continuing to run toward the Hyundai. Simultaneously, the impact of a bullet can be seen on the pavement south of pump number three.

At the time the round struck the pavement, Detective A was partially obscured from the camera's view by a gas pump and metal pillar. While in this area, Detective A could be seen extending his/her arms toward Subject 1 in an isosceles-type shooting stance, but his/her pistol was not visible.

Two of Detective A's discharged cartridge cases (DCCs) were recovered from the ground west of pump number one, in the area that was not captured by the gas station's security video system. Upon analyzing the scene, a Criminalist identified one bullet pathway on the brick wall south of Detective A's location and one bullet pathway on the asphalt south and west of pump number three. The Criminalist determined the bullets that created those pathways were fired from the north to the south. This information is consistent with Detective A having fired two rounds at Subject 1 as Subject 1 re-entered the parking lot. Detective A did not recall firing his/her pistol at this point.

Security video footage shows that Detective A moved south along the west gas pumps where he/she positioned him/herself behind a metal box, near pump number three. Detective A then utilized a two-handed grip to fire three additional rounds at Subject 1 as he/she approached the Hyundai.

According to Detective A, after stumbling, Subject 1 continued running toward the Hyundai. When Subject 1 was approximately 20 feet away from the Hyundai, he/she saw Subject 1's right hand tucked along the right side of his body near the waistband. Additionally, Detective A observed Subject 1's right elbow was bent as if he was preparing to raise his handgun and fire at Detective A.

According to Detective A, after firing, he/she observed Subject 1 fall forward behind the Hyundai. As Subject 1 fell, Detective A heard a heavy metal object hit the concrete and believed it may have been a gun.

Based on the security video footage, Subject 1 was running back towards the subject's vehicle and was approximately in the middle of the parking lot southwest of that vehicle when Subject 3 dropped his pistol on the ground to the rear of the vehicle. This was the only weapon dropped on the ground during the incident.

Detective A only recalled firing two rounds during this incident. He/she remembered firing both rounds east while he/she was behind the metal box and Subject 1 was running toward the back of the Hyundai.

The Criminalist assigned to this investigation identified two bullet pathways near the southwest corner of the convenience store and one bullet pathway on the west side of the planter located south of pump number five that were created by bullets fired from Detective A's position near pump number three. This information is consistent with Detective A having fired three rounds at Subject 1 in a southeast direction as Subject 1 ran toward the Hyundai.

Security video footage and physical evidence confirmed Detective A fired a total of five rounds during this incident. Two were fired as Subject 1 re-entered the parking lot and three were fired as Subject 1 approached the rear of the Hyundai.

Security video footage showed that after Subject 3 fired his second round, he moved to the rear of the Hyundai, dropped his handgun on the ground, and laid on his back near the rear bumper with his hands in the air. Subject 3 was quickly joined by Subject 1 who continued past him before diving to the ground near the right front tire. Subject 1 was on his right side, facing south, with his left hand up in the air and his right hand on the ground. As Subject 1 rejoined Subject 3, Subject 2 secreted his handgun in his right front pant pocket and walked to the north side of the gas station convenience store.

Detective C and Officers B and C approached Subject 3 and Subject 1 from the rear of the Hyundai, while Detectives A and B, and Officers A and D approached from the front.

According to Detective C, he/she observed Subject 3 go to the ground near the back of the Hyundai and turn onto his back with his hands up. He/she then observed a handgun on the ground approximately six feet away and believed Subject 3 was the same person at whom he/she had just fired. Detective C ordered Subject 3 to roll onto his stomach and to put his hands behind his back.

According to Detective C, Subject 3 seemed hesitant to roll over, but when he ultimately did, he kept the left portion of his chest off the ground and did not move his hands behind his back as ordered. Detective C considered that Subject 3 was unsearched, had just been involved in a shooting and was failing to put his hands behind his back. Detective C also observed that Subject 3 was in close proximity to the unsecured handgun. Detective C delivered one kick to Subject 3's right torso to compel him to move his hands behind his back.

Security video footage showed that as Officer C and Detective C closed to within one foot of Subject 3, he rolled onto his stomach, but kept his left arm and the left side of his chest off the ground. Detective C then delivered a single kick to the right side of Subject 3's torso. Subject 3 then moved his hands behind his back. Officer C then reached down and grabbed Subject 3's left wrist with his/her left hand and holstered his/her pistol. Simultaneously, Detective C grabbed Subject 3's right wrist with his/her left hand and placed it in the center of Subject 3's back before he/she placed his/her left knee and bodyweight on top of Subject 3's right forearm and right shoulder. Once Detective C had control of Subject 3's right wrist, Officer C relinquished Subject 3's left wrist and moved north toward Subject 1 with Officer B. Detective C then placed the muzzle of his/her pistol on the base of Subject 3's neck.

According to Detective C, as he/she continued to apply bodyweight to Subject 3's right forearm, he/she placed the barrel of his/her pistol at the base of Subject 3's neck while telling Subject 3, "Don't move." Detective C recognized that Subject 3 was unsearched, and that the situation was still fluid. He/she believed that physically placing his/her gun on Subject 3 would be an effective way to maintain control of Subject 3 until he could be handcuffed. Moments later, Detective B holstered his/her pistol, moved to Detective C, and handcuffed Subject 3 while Detective C continued covering him/her with his/her pistol.

When later interviewed by FID investigators, Subject 3 claimed Detective C placed his/her knee on his/her neck. Security video footage showed that Detective C's knee was near the middle of Subject 3's back and never made contact with Subject 3's neck.

Security video footage showed that Detective C's finger was on the trigger for approximately 13 seconds as he/she covered Subject 3. According to Detective C, while holding Subject 3 at gunpoint, he/she realized that he/she had inadvertently placed his/her finger on the trigger of his/her pistol, and upon realizing this, he/she removed it.

Security video footage showed that as Detective C approached Subject 3, Subject 1 was sitting on his right side with both hands partially raised. As Officer B approached him, Subject 1 rolled onto his stomach, but kept his chest off the ground. When Subject 1 rolled to his right, a black object could be seen lying on the ground under his torso. As Officer B continued to approach, Detective A came up from behind Subject 1 and delivered a single kick to his left shoulder which caused him to lay completely flat.

Once Subject 1 was on his stomach, Officer C immediately placed his/her right knee on the small of Subject 1's back. Simultaneously, Officer C grabbed Subject 1's wrists and held them behind his back while Officer B holstered his/her pistol and handcuffed Subject 1.

According to Officer B, once he/she knew Detective C and Officer C were addressing Subject 3, he/she moved around them and covered Subject 1. Officer B observed that Subject 1 was on his right side with only his left hand raised while his right hand

remained near his body as if he were trying to hide or grab something. In response, Officer B told Subject 1, "Let me see your hands. Let me see your hands." He/she repeated this command because Subject 1 was not complying.

According to Detective A, from his/her position on the north side of the Hyundai, he/she heard Officer B giving commands to Subject 1. It did not appear that Subject 1 was following Officer B's commands. As Detective A continued around the front of the Hyundai, he/she observed a dark colored object under Subject 1 and believed it may have been the gun he/she heard hit the concrete moments before. According to Detective A, he/she approached Subject 1 from behind and kicked him with the bottom of his/her foot to push him away from the possible firearm.

Based on security camera footage, Officer B was approaching Subject 1 from the front at the time when Detective A kicked him, and he (Subject 1) appeared to be in the process of rolling clockwise into a prone position. When his upper torso appeared to be inches from the ground, Subject 1 stopped, raised his left hand/arm off of the ground, and shifted his left hand/arm marginally back towards his left side. Subject 1's upper torso also moved slightly counterclockwise. At approximately this time, Detective A began to deliver a kick to the rear of Subject 1's upper torso. Meanwhile, as Detective A's foot was raised, Subject 1 began to lower his hand/arm back towards the ground. Detective A's foot then made contact with Subject 1, forcefully pushing him back into a prone position. A black object could be seen laying on the ground near Subject 1.

The black object was later determined to be Subject 1's cellular telephone. Security video footage and physical evidence determined that Subject 1 was carrying the phone in the kangaroo pocket of his sweatshirt during this incident. The phone fell out of Subject 1's pocket and onto the ground as the officers approached to take him into custody.

Security video footage showed that prior to the officers approaching the Hyundai, Subject 2 placed his handgun in his right front pant pocket and walked to the north side of the gas station convenience store. Once there, Subject 2 discarded his handgun behind an ivy-covered, chain-link fence. Subject 2 then turned around, raised his hands, and went down to his right knee before he laid face down on the ground with his hands extended in front of him.

According to Officer A, after reloading his/her pistol, he/she realized the gunfire had stopped. He/she raised him/herself from the floor of the van and assessed the area before he/she exited. Officer D then alerted Officer A to Subject 2's presence and cautioned him/her that Subject 2 may have either discarded a gun or that he may still be armed with a gun.

Officer D covered Subject 2 with his/her pistol and told Subject 2 to, "Get on the ground." while Officer A holstered his/her pistol. As the officers approached, Officer A saw Subject 2 looking up at him/her. According to Officer A, he/she was concerned that Subject 2 may get up from the ground, so he/she hurried over to him. Upon reaching

Subject 2, Officer A dropped down to his/her knees and straddled Subject 2's waist. As he/she did so, Subject 2 moved both of his hands under his chest and attempted to roll over. According to Officer A, this movement caused him/her to believe Subject 2 may be attempting to arm himself with a weapon that was concealed in his waistband area. Officer A ordered Subject 2 to "Stop resisting," and to "Stop moving," as he/she applied downward pressure to Subject 2's left shoulder blade with his/her left forearm. Simultaneously, Officer A reached under Subject 2 and grabbed his right arm with his/her right hand and moved it behind Subject 2's back. After obtaining control of Subject 2's right arm, Officer A used his/her left hand to assist in maintaining it behind Subject 2's back. Subject 2 then moved his left hand behind his back, where Officer A grabbed it. Officer A held Subject 2's hands together with his/her left hand while he/she applied handcuffs with his/her right hand. Officer A then stood Subject 2 up and conducted a pat down search for weapons; none were found.

When interviewed by FID investigators, Subject 2 claimed Officer A kned him in the ribs, hit him in the face, and threatened to "kill him" if he was not quiet. Security video footage shows that as Officer A reached Subject 2, he/she delivered a single kick with his/her right foot to the right side of Subject 2's torso. No strikes to the face were observed. Officer A did not recall kicking Subject 2. When shown the video of Subject 2's arrest and asked for clarification, Officer A acknowledged the contact, but denied intentionally kicking Subject 2. According to Officer A, he/she believed his/her foot accidentally contacted Subject 2 as he/she quickly approached to take him into custody.

While Officers B and C were handcuffing Subject 1, Detective A holstered his/her pistol and walked to the north side of the convenience store where Officers A and D were interacting with Subject 2. Once there, Detective A observed Officer A applying bodyweight and attempting to handcuff Subject 2. After providing direction to Officers A and D, Detective A walked to the van and donned his/her tactical vest.

Officers from another public safety agency were among the first uniformed officers to respond to this incident. Upon their arrival, Detective A directed them to establish a crime scene and assist with traffic control.

After Subject 2 was taken into custody, Officer D walked to where Subject 1 was handcuffed. Officer D observed blood coming from Subject 1's left hip and requested a Rescue Ambulance (RA) on Base. A Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) arrived at the scene and treated Subject 1 for gunshot wounds to his/her left thigh and right flank. Subject 1 was transported to the hospital where he/she was treated and released.

BWV and DICVS Policy Compliance

None of the detectives or officers were required to wear BWV or use DICVS while in plain clothes and driving plain vehicles.

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

B. Drawing and Exhibiting

The BOPC found Detective C and Officer B's drawing and exhibiting of a firearm to be Out of Policy. The BOPC found Detectives A and B's, and Officers A, C, and D's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

The BOPC found Detectives A [(1) Strike/Kick] and C [(1) Strike/Kick] and Officer A's [(1) Strike/Kick] non-lethal use of force to be Out of Policy.

The BOPC found Detective C's [(1) Firm Grip, (1) Bodyweight] and Officers A and C's [(1) Physical Force, (6) Firm Grip, and (2) Bodyweight] non-lethal use of force to be In Policy.

D. Lethal Use of Force

The BOPC found Detectives A, B, and C's [(5) rounds, (1) round, and (3) rounds respectively], and Officers A and B's [(6) rounds] lethal use of force to be Out of Policy. The BOPC found Officer A's [(12) rounds] 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, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life.

Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 4, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

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

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

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

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

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible.

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

The Department's Evaluation of Deadly Force. The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*. (Special Order No. 4, 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.)

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 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 – The BOPC opined the Operations Plan approved by Detective A and discussed with Detectives B and C was deficient, and that the involved personnel deviated from the standard undercover operations and transitioned to a surveillance and apprehension tactical approach without the adequate uniformed personnel and marked police vehicles.

The BOPC noted there was no pre-planning with the unit personnel to clarify a tactical plan should they encounter armed suspects.

Assessment – The BOPC noted that though the incident was highly stressful, and the involved personnel were continually assessing throughout the incident, their lack of communication and coordination prevented them from properly assessing the overall view of the tactical situation as evidenced by the majority of the involved personnel never observing Subject 2 and his/her actions.

Time – The BOPC was critical of Detectives A, B, and C's lack of active leadership during the window of time between Officer C requesting the personnel in the van to respond to the gas station and the OIS. The BOPC noted additional measures of communication were not established and were a contributing factor in the tactical response and approach of the van.

Redeployment and/or Containment – The BOPC noted that Detective C, along with Officers B and C, all redeployed from their vehicle as Subject 1 ran back towards the subjects' vehicle and attempted to contain the subjects from fleeing as they surrendered. Additionally, the BOPC considered that Detective B observed Subject 2 attempting to discard his handgun, contained him, and directed him to get on the ground.

Other Resources – Prior to the OIS, Detective C broadcast a request for a back-up and an Air Unit on base frequency. The FID investigation determined the unit personnel (who were attired in plain clothes) did not wait for responding patrol units before taking action and driving into the gas station. During the OIS, patrol officers, an Air Unit, and other public safety personnel responded to the location of the OIS. The BOPC was critical of the unit personnel's decision to take action without waiting for responding resources.

Lines of Communication – The BOPC noted once the officers were fired upon and the OIS began, there was minimal tactical communication between the officers in each vehicle as well as between the officers in different vehicles.

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

- 1. Body Armor** (Substantial Deviation, without justification – Detectives A and C, and Officers B and C)

Detectives A and C, along with Officers B and C, did not don their Department-approved body armor when conducting field-related surveillance duties.

Surveillance personnel are required to wear body armor, unless specifically exempt. No exemption was obtained for the body armor requirement on the approved written Operations Plan.

Upon deploying to the field at the onset of the surveillance operation, Detectives A and C, along with Officers B and C did not don their Department-approved body armor. According to the personnel, they believed they were working plainclothes surveillance in an undercover capacity. The BOPC was critical of Detectives A and C as supervisors for misunderstanding the different equipment requirements for the different variations of non-uniformed field operations such as surveillance, plainclothes, and undercover operations.

It is the responsibility of each individual officer to know the procedures and policies that govern their duties. Over the past several years, the Department has established clear direction defining the roles and equipment requirements of UC operators and surveillance personnel. The undercover directive provides clear direction of the requirement of body armor for personnel assigned to surveillance operations. In this case, the operation was not an undercover (UC) operation as the officers were not proactively seeking to establish a relationship or make contact with a suspect or group to gather evidence or intelligence while concealing the operator's identity as a police officer to accomplish the mission. As such, the officers were not classified as UC operators, nor did they receive an exemption to wear body armor from a commanding officer.

Based on the totality of the circumstances, the BOPC determined that Detectives A and C along with Officers B and C's decisions to not don their body armor prior to participating in a surveillance operation was a substantial deviation without justification from approved Department policy.

- 2. Tactical Planning/Communication** (Substantial Deviation, without justification – Detectives A, B, and C)

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their recognition of an unsafe situation and by working together 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.

Detective A approved a written Operations Plan detailing surveillance; however, it lacked the minimum information and resources necessary for a surveillance operation. Detectives B and C were apprised of the plan and did not revise or point out the deficiencies.

The written Operations Plan was described as a “surveillance” operation in the narrative portion of the plan. However, various personnel stated in their interviews that the plainclothes personnel were working in a surveillance capacity and therefore, they would not wear their body armor or ballistic vests to avoid exposing their identities. The BOPC noted that the personnel believed they were in compliance with Department expectations as long as they had their ballistic vests staged beside them and were immediately accessible. The written Operations Plan did not document the operation as an undercover operation, nor did it document any exemption to required equipment, such as body armor.

The BOPC considered the written Operations Plan generally defined the roles/duties of each individual officer assigned to the surveillance operation; however, those roles were specified at the unit briefing prior to the operation. The Operations Plan was completed on an internal Southwest Divisional Operations Plan form, as opposed to the Department approved Operations Plan (LAPD Form 12.22.00), which has a section on the face sheet for unit, names, serial numbers, duties, and an equipment checklist. Additionally, though the BOPC acknowledged the unusual occurrence, which was taking place at the time, they were critical of the lack of uniformed chase personnel, the lack of marked black and white police vehicles, and the designated radio frequency utilized during the operation which numerous personnel stated was unreliable.

The BOPC noted that Detective A advised he/she provided a written copy of the Operations Plan to the Watch Commander; however, the FID investigation determined no Operations Plan was attached to the SOW Watch Commander’s Daily Report and it did not appear the Operations Plan was provided. The BOPC was critical of the fact that Detective A did not present the Operations Plan to the Watch Commander and have it approved by the Watch Commander as the designee of the Commanding Officer of the Division.

The BOPC discussed that the Operations Plan, which was approved by Detective A and communicated to Detectives B and C, did not include necessary information or personnel needed, nor did it provide a tactical plan that officers could utilize if they encountered armed suspects. The actual Operations Plan led to confusion amongst the personnel as to the nature of their operation, specifically whether the unit was conducting surveillance for burglaries and looting, or if they were conducting crime suppression to apprehend those suspects.

The BOPC noted that Detectives A, B, and C did not develop and communicate a tactical plan with each other or the personnel in both vehicles when they became aware of subjects who were armed with a handgun in the gas station. The BOPC noted that according to the personnel, their standard practice was to meet up with the unit observing the subjects, and then request uniformed officers to respond, at which time the personnel would assist with taking the subjects into custody. The BOPC was critical of the lack of uniformed officers and marked black and white police vehicles assigned to the operation and opined that the unclear and poor communication between the personnel in each vehicle led to a deviation from their prior tactical plans, which significantly contributed to poor situational awareness and positioning leading up to the OIS.

The BOPC noted each of the specialized unit vehicles contained a supervisor, and the BOPC was critical of Detectives A, B, and C's lack of active leadership throughout the surveillance operation. While supervisors often delegate tasks or responsibilities, they are ultimately responsible for command and control of the operation regardless of roles. Detectives A, B, and C were ultimately responsible for formulating and communicating tactical plans to counter the threat posed by suspects armed with handguns. The BOPC opined that Detectives A and B should have made additional attempts to establish communications prior to hastily responding without any information while Detective C should have also done the same in order to inform the responding personnel of the dangers of the tactical situation.

Based on the totality of the circumstances, the BOPC determined that Detectives A, B, and C's approval of tactical planning lacking necessary detail and resources, along with their lack of tactical planning and communication with personnel when confronted with armed suspects, was a substantial deviation without justification from approved Department tactical training.

3. Code Six (Substantial Deviation, with justification, Officer D)

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. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in the case being reviewed, their actions can be unpredictable.

The BOPC considered that Detective C was the individual assigned to monitor and broadcast on the base frequency while Officer D was assigned to do the same in the van. The FID investigation determined that Detective C and Officers B and C observed the subjects armed with handguns in the Chevron gas station and proceeded to exit the location. The BOPC noted that Detective C and Officers B and C redeployed northbound and repositioned themselves on the

street under the freeway overpass. They requested the additional personnel in the van via the fallback frequency and donned their tactical vests and gear.

The BOPC noted that Detective C broadcast a back-up request for a 415 group with a gun at the gas station approximately one minute after observing the subjects in the gas station were armed and redeploying quickly to reposition themselves away from Subject 3, who pointed a handgun at them. The BOPC considered that approximately twelve seconds after his back-up request, Detective C keyed the microphone on his/her police hand-held radio a second time. In the background, Officer C can be heard broadcasting, "415 man with a gun! White shirt. He's got a gun. White sweatshirt," over the fallback frequency. Simultaneously, Detective C broadcast over the base frequency, "White shirt. White sweatshirt," before gunshots were heard in the background. Detective C immediately broadcast, "Shots fired! Shots fired!" The BOPC noted the FID investigation determined the OIS began shortly after Detective C requested a back-up and just after Detective C keyed his/her microphone the second time and began broadcasting.

The BOPC considered that Officer D was positioned in the rear passenger's side seat in the van. The communications provided to the personnel in the van were not clear on the fallback frequency, causing Officer D to turn down the volume on the base frequency which he/she had been monitoring as the officers headed in the direction of the gas station. The BOPC noted as the van approached the gas station, the personnel in the van heard broken broadcasts over the fallback frequency regarding subjects in the gas station in a gray car and did not hear Detective C's back-up broadcast on the base frequency.

The BOPC considered the fact that when Detective A pulled into the Chevron gas station and drove east toward the subjects' vehicle, the van immediately began taking gunfire. Officer D attempted to exit the vehicle through the rear passenger's side sliding door when he/she was struck on his/her right leg by what he/she believed was a round. The BOPC noted that Officer D took cover behind the rear passenger's side sliding door as Officer A began to return fire. The BOPC opined the decision of driving the van into the gas station and positioning it facing eastbound just to the northwest of the subjects' position, placed Officer D in a tactically disadvantageous position and forced Officer D to immediately react to an imminent lethal threat. The BOPC noted that Officer D was struck by an unknown object, and he/she took cover as the OIS was occurring. The BOPC opined it was not feasible or tactically safe for officers to attempt to broadcast their Code Six location during this time.

Based on the totality of the circumstances, the BOPC determined that Detective C's actions with regards to his/her Code Six broadcast were not a deviation from approved Department tactical training. Additionally, based on the totality of the circumstances, the BOPC determined that Officer D's action with regards to

his/her lack of Code Six broadcast was a substantial deviation, with justification, from approved Department tactical training.

4. Tactical Vehicle Deployment (Substantial Deviation, without justification, Detective A and Officer B)

Detective A stopped the van facing eastbound, just northwest of the subject's vehicle position along the east pumps of the gas station. Officer B stopped his/her vehicle facing southbound in the northbound lanes of the nearby roadway.

When conducting a vehicle stop, it is critical to properly position the police vehicle in order to provide officers a tactical advantage afforded by the vehicle itself and its equipment.

The BOPC noted that Detective A was the driver of the van while Officer B was the driver of his/her vehicle. The BOPC considered that according to Detective A, he/she heard a request by Officer C over the fallback frequency to respond to the area. As he/she approached the location, he/she heard another broadcast from Officer C stating, "Gas station. At the gas station." Detective A entered the gas station and proceeded in an easterly direction believing the other personnel were already in the gas station parking lot. As Detective A drove eastbound, he/she observed Subject 3 with a handgun. When Subject 3 began shooting at the van, Detective A stopped the van facing in an easterly direction, northwest of the front of the subjects' vehicle. The BOPC opined Detective A's maneuvering and positioning of the van placed all personnel including him/herself at a significant tactical disadvantage. Detective B was required to exit the vehicle on the side where the subjects were located. Officers A and D were confined to the rear of the van as they were unable to exit due to their exposed position. Additionally, the BOPC noted that Detective A did not activate any emergency lights, overhead lights, or spotlights due to the van not being equipped with them.

The BOPC noted that once Officer B observed the van turn into the gas station, from his/her stopped position under the freeway overpass, he/she proceeded south. The BOPC considered that Officer B heard gunfire and had stated that he/she observed Subject 1 running while armed with a handgun. Officer B closed distance with Subject 1 and drove south in northbound lanes of traffic. Officer B stopped his/her vehicle facing southbound in the northbound lanes, in close proximity to the east curb of the street where Subject 1 was running. The BOPC opined that Officer B placed him/herself and his/her partners seated in his/her vehicle at a significant tactical disadvantage by positioning the vehicle alongside Subject 1 as he ran. The BOPC noted that Officer B believed Subject 1 was armed with a handgun and closed the distance rapidly and placed his/her vehicle in close proximity to Subject 1, allowing only minimal time for him/her and his/her partners to react to Subject 1's movements and actions. Additionally, the BOPC considered that Officer B drove into opposing lanes of traffic and did not

activate any emergency lights, overhead lights, or spotlights due to his/her vehicle not being equipped with them.

Based upon the totality of the circumstances, the BOPC determined that Detective A and Officer B's actions with regard to the tactical positioning of their vehicles was a substantial deviation, without justification, from approved Department tactical training.

5. Basic Firearms Safety Rules (Substantial Deviation, without justification, Detective C)

Detective C placed the muzzle of his/her service pistol on the base of Subject 3's neck. During this action, his/her right index finger on the trigger of his/her service pistol for approximately 13 seconds as he/she maintained physical contact with Subject 3 and assumed both the contact and cover role.

The BOPC was critical of Detective C's decision to transition from his/her designated cover officer role and initiate physical contact with Subject 1 as he/she took both a contact and cover role. The BOPC noted that Detective C placed bodyweight on Subject 3 as he/she held his/her service pistol against the base of Subject 3's neck, which is not consistent with Department approved training. The BOPC considered that Detective C placed his/her finger on the trigger during this time for approximately 13 seconds which was in violation of a Basic Firearm Safety Rule as Subject 3 was in a prone position, not resisting, and being controlled by Detective C.

In this case, the BOPC would have preferred that Detective C maintain his/her role as the designated cover officer and avoid initiating physical contact with Subject 3. Detective C should have taken active leadership as a Department supervisor and maintained his/her composure as he/she communicated with the other personnel in coordinating taking the subjects into custody. The tactical decisions and positioning by Detective C increased the likelihood of the Subject potentially taking his/her service pistol or result in an unintentional discharge and was not consistent with Department approved training.

Based upon the totality of the circumstances, the BOPC determined that Detective C's actions with regard to making contact with Subject 3 with his/her service pistol along with having his/her finger on the trigger was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
 - **Non-Medical Face Coverings** – Prior to or during the tactical incident, the involved personnel did not don Non-Medical Face Coverings as directed by the Chief of Police on May 20, 2020, for health and safety concerns related to the coronavirus.

- **Shooting Through Window** – Upon entering the gas station gas station and receiving gunfire from Subject 3, Officer A returned fire through the rear passenger’s sliding door window of the van while directing his/her rounds toward Subject 3.
- **Maintaining Control of Equipment (Radio)** – As Subject 1 fled in a northeasterly direction toward the Hyundai, Detective C dropped his/her hand-held police radio as he/she followed after Subject 1. Officer B dropped his/her hand-held police radio as he/she exited his/her vehicle to follow Detective C and Officer C who were closing distance with Subject 1.
- **Approaching an Armed Suspect** – As the OIS was occurring and the personnel were either redeploying around the gas station pump area or following after Subject 1 who was running in a northeasterly direction, Detectives A and C, along with Officers C and B, quickly closed distance with both Subjects 1 and 3, who had laid on the ground just east of their vehicle. Department personnel swiftly began making physical contact with the subjects who were in close proximity to each other in an attempt to quickly take them into custody. Detectives A and C, along with Officers C and B, were reminded to utilize time, distance, and their available cover to approach armed subjects in a safe and coordinated manner to optimize officer safety.
- **Utilization of Cover** – Once the van stopped in the gas station, all personnel deployed from the vehicle with the exception of Officer A and began to redeploy around the gas station pumps. Additionally, once the second vehicle stopped, all personnel inside deployed from the vehicle and began to follow and close distance with Subject 1. The detectives and officers redeployed to keep visual contact with Subject 1; however, they did not utilize the available cover in the gas station in an effective manner. The detectives and officers were reminded that when involved in a tactical situation involving a subject armed with a handgun, they should utilize their available cover as effectively as possible to ensure officer safety and minimize their exposure.
- **Contact/Cover Roles** – As personnel gave commands to Subject 1 and Subject 3 and began to initiate physical contact with them, Officer C assumed the role of the contact officer as Detective C maintained his/her role as the designated cover officer. Detective C then made physical contact with Subject 3 while maintaining his/her designated cover role and took on both the contact and cover role as Officer C transitioned to a contact role with Subject 1.
- **Crossfire** – During the OIS, Officer A discharged his/her service pistol while he/she was positioned in in the rear seating area of the van. The FID investigation revealed Officer A shot at a moving target as he/she discharged his/her service pistol toward Subject 3. The FID investigation determined that Officer A’s direction of fire was initially in a southeasterly direction across the

front passenger door of the van as indicated by impacts located on the property of the gas station. Detective B was still seated in the front passenger seat and was at a close proximity to Officer A, which led to a potential crossfire situation as Officer A discharged his/her service pistol in a southeasterly direction. Additionally, upon approaching Subject 1 and Subject 3, the personnel attempted to simultaneously initiate physical contact and take both subjects into custody, which led to a potential crossfire situation. Various personnel maintained their roles as designated cover officers, as others, initiated physical contact to handcuff the subjects or redeployed to different tactical positions. Additionally, as Detective C delivered a kick to Subject 3, he/she transitioned his/her service pistol to a close contact position; however, Officer C was in close proximity and potentially covered by Detective C's service pistol. Detectives A and C, along with Officers A, B, and C were reminded to consider their position relative to each other to avoid the potential of a crossfire situation.

- **Clearing of Subject's Vehicle** – The personnel cleared the subjects' vehicle after they took Subjects 1, 2, and 3 into custody. However, the subjects' vehicle was in close proximity to the both the personnel and Subject 1 and Subject 3 as they were taken into custody.
- **Initiating Physical Contact while holding a service pistol** – Detectives A and C both delivered a strike/kick on Subject 1 and Subject 3 while holding their service pistols. Additionally, Detective C and Officer C both initiated physical contact with subjects while holding their service pistols.
- **Rendering Aid/Medical Treatment** – The FID investigation noted that at approximately 2125 hours, less than one minute after the conclusion of the OIS, and after Subject 2 was taken into custody, Officer D walked to where Subject 1 was handcuffed. He/she observed blood coming from Subject 1's left hip and requested a Rescue Ambulance (RA).

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 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.

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

warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

- **Detective A**

According to Detective A, as he/she drove the van east into the gas station gas station to assist the personnel that he/she believed were in there, he/she observed a subject with a gun and heard over the radio, "That guy's got a gun right there." Detective A observed that the subjects began firing at the van and he/she immediately stopped the van, exited the vehicle, and drew his/her service pistol as he/she was getting it ready. Detective A's intention was to engage the subjects since they were actively shooting at him/her and the personnel in the van.

- **Detective B**

According to Detective B, as the van pulled into the gas station and stopped, he/she observed a bright red light, which was pointed in his/her direction and then heard and felt rounds hitting the van. Detective B formed the opinion that the rounds were coming from the direction that the red light was located and drew his/her service pistol as he/she immediately exited his/her vehicle due to his/her belief that the tactical situation "definitely had the possibility of escalating to a deadly force situation" due to the fact that he/she was being shot at.

- **Detective C**

According to Detective C, as he/she and Officers B and C were stopped under the freeway overpass, he/she donned his/her tactical vest and drew his/her service pistol. Detective C drew his/her service pistol, "fearing the situation could escalate to the use of deadly force" based on the fact that the subjects had already pointed a handgun at him/her and his/her partners. Detective C believed that based on the subject's actions of "pointing a gun" at him/her and his/her partners, the "likelihood that a deadly force situation could arise was very high" if the personnel attempted to initiate a stop. Detective C advised that he/she held his/her service pistol resting on the magazines of his/her tactical vest, pointing toward the rear passenger door.

- **Officer A**

According to Officer A, he/she was seated in the left rear driver's side seat as the van drove east into the gas station gas station from the street. Officer A observed a subject armed with a "gun and simultaneously heard Officer C say that there was a gun." Officer A drew his/her service pistol when he/she saw the gun and observed the subject trying to shoot the personnel. Officer A believed the tactical situation had already escalated to where deadly force may be justified and drew his/her service pistol based on the rounds that were being fired at the van and to defend both his/her life and the lives of his/her partners.

- **Officer B**

According to Officer B, he/she observed a subject fleeing in a southeasterly direction toward the street, and he/she attempted to close distance to a point where he/she could maintain a safe distance. As Officer B approached the subject, he/she observed him/her holding a gun. Officer B observed the subject turn in a counterclockwise direction, complete his/her turn to go back northbound and point his/her right hand toward him/her. Officer B drew his/her service pistol as he/she was still inside his/her vehicle and still driving based on the fact that he/she believed the subject was going to kill him/her and his/her partners.

- **Officer C**

According to Officer C, as Officer B drove south on the street to follow after the subject who was also fleeing on foot south on the street, he/she observed the subject holding his/her waistband. Officer C believed “the situation might escalate into serious bodily injury or threat of death,” based on the fact that shots were being fired and his/her belief that the subject was armed with a gun. Officer C drew his/her service pistol immediately upon exiting his/her vehicle.

- **Officer D**

According to Officer D, he/she was seated in the rear passenger’s side seat of the van as it drove east into the gas station from the street. Officer D observed that a subject armed with a gun began shooting at the van. When Officer D was able to open the sliding door of the van and exit, he/she drew his/her service pistol “based off of the shooting and just the tactical situation that we were in of an exchange of gunfire.” Officer D drew his/her service pistol in the event the subject decided to present him/herself and continue shooting toward the personnel, he/she would be able to stop the threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detectives A and B, and Officers A and D, 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 Detectives A and B, and Officers A and D’s drawing and exhibiting of a firearm to be In-Policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, 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 Officer C’s drawing and exhibiting of a firearm to be In-Policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances, would have primarily focused on the safe operation and tactical deployment of the vehicle and not have drawn his/her service pistol at that time.

Therefore, the BOPC found Officers B's drawing and exhibiting of a firearm to be Out of Policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective C, while faced with similar circumstances, would have primarily focused on communicating and coordinating the response of uniformed resources and not have prematurely drawn his/her service pistol at that time.

Therefore, the BOPC found Detective C's drawing and exhibiting of a firearm to be Out of Policy.

In sum, the BOPC found Detective C and Officer B's drawing and exhibiting of a firearm to be Out of Policy. The BOPC found Detectives A and B's, and Officers A, C, and D's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

- **Detective A – (1) Strike/Kick**

The FID investigation revealed that that as Detective C approached Subject 3, Subject 1 was sitting on his right side with both hands partially raised. As Officer B approached Subject 1, Subject 1 rolled onto his stomach, but kept his chest off the ground. When Subject 1 rolled to his right, a black object could be seen lying on the ground under his torso. As Officer B continued to approach, Detective A came up from behind Subject 1 and delivered a single kick to Subject 1's left shoulder which caused him to lay completely flat on the ground (**Detective A Strike/Kick – 1**).

The FID investigation later determined the black object was Subject 1's cellular telephone. Security video footage and physical evidence determined Subject 1 was carrying the phone in the kangaroo pocket of his sweatshirt during this incident. The phone fell out of Subject 1's pocket and onto the ground as the officers approached to take him into custody.

According to Detective A, from his/her position on the north side of the subjects' vehicle, he/she heard Officer B giving directions to the subject that was on the ground. Detective A observed that Subject 1 did not appear to be listening to the commands being given. Additionally, as Detective A continued around the front of the subjects' vehicle, he/she observed something black underneath the Subject 1's abdomen area which he/she believed could have been a firearm. Detective A

approached Subject 1 from behind and kicked Subject 1 with the bottom of his/her foot to push Subject 1 away from the possible firearm. Officers B and C proceeded to take Subject 1 into custody.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Detective A's use of non-lethal force. The BOPC opined that as the personnel approached Subject 1, he was positioned beside the right passenger tire of the subjects' vehicle. Detective A advised that Subject 1 was not complying with commands to lay flat on the ground. The BOPC considered that Detective A observed a black object under Subject 1, which he/she believed was a possible weapon. Detective A, in an attempt to move Subject 1 away from the possible weapon, utilized a kick to push Subject 1.

The BOPC noted the FID investigation determined that the black object that Detective A observed was his cellular phone, which fell out Subject 1's sweatshirt pocket. The BOPC evaluated the kick Detective A delivered to Subject 1 and believed Subject 1 did not present an immediate threat of violence or physical harm and was not actively resisting at the time it was applied. Although the BOPC agreed that the situation was dynamic and chaotic, the BOPC would have preferred that Detective A had utilized more restraint and coordinated efforts to give Subject 1 clear commands and direction to gain his compliance.

The BOPC determined that an officer with similar training and experience as Detective A, while faced with similar circumstances, would believe that this specific application of a non-lethal kick was not objectively reasonable.

Therefore, the BOPC found this specific application of Detective A's non-lethal force (Strike/Kick) to be Out of Policy.

- **Detective C** – (1) Strike/Kick, (1) Firm Grip, and (1) Bodyweight

According to the FID investigation, as Officer C and Detective C closed to within one foot of Subject 3, he rolled onto his stomach, but kept his left arm and the left side of his chest off of the ground. Detective C then delivered a single kick to the right side of Subject 3's torso (**Detective C Strike/Kick – 1**). Subject 3 then moved his hands behind his back. Officer C then reached down and grabbed Subject 3's left wrist with his/her left hand and holstered his pistol. Simultaneously, Detective C grabbed Subject 3's right wrist with his/her left hand (**Detective C Firm Grip – 1**) and placed it in the center of Subject 3's back before he/she placed his/her left knee and bodyweight on top of Subject 3's right forearm and right shoulder (**Detective C Bodyweight – 1**). Once Detective C had control of Subject 3's right wrist, Officer C relinquished Subject 3's left wrist and moved north toward Subject 1. When later interviewed by FID investigators, Subject 3 claimed Detective C placed his/her knee on Subject 3's neck. The FID investigation determined that Detective C's knee was near the middle of Subject 3's back and never made contact with Subject 3's neck.

According to Detective C, he/she approached Subject 3 and commanded him to get on his stomach. Detective C observed that when Subject 3 did roll over onto his stomach, he positioned his chest up and maintained his arms out even though he was being “directed to push his arms behind his back.” Detective C considered that Subject 3 had not been searched, an officer-involved shooting had just occurred, and Subject 3 “wouldn’t put his arms behind his back.” Detective C also observed that Subject 3 was in close proximity to an unsecured handgun which he/she estimated was approximately six feet away. Detective C delivered one kick to Subject 3’s “right side to gain compliance.” Detective C observed that Subject 3 “immediately then put his hands behind his back,” at which time Detective C “grabbed one hand and then placed [his/her] knee in the small of his back.” Detective C maintained control of Subject 3 until he was handcuffed by Detective B.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Detective C’s use of non-lethal force with particular attention given to the single kick delivered to Subject 1 as Detective C approached. The BOPC noted that Subject 3 placed his hands in the air and was facing upward as Detective C and Officer C approached. Subject 3 then turned over onto his stomach while keeping his arms outstretched. The BOPC considered that Detective C stated Subject 3 was not complying with commands to place his hands behind his back and was in close proximity to a handgun. Detective C made the decision to utilize a single kick to the right side of Subject 3’s body to quickly gain compliance and have Subject 3 place his hands behind his back.

The BOPC noted the incident was chaotic and placed a high amount of stress on the personnel involved. The BOPC opined that Detective C allowed his/her emotional state caused by the OIS to affect him/her, and he/she utilized a kick on a subject who appeared to be complying. Additionally, the BOPC noted that strikes and kicks are utilized based on a subject’s specific actions such as where a subject may be reaching for a weapon or toward a pocket which may contain a weapon. However, in this case, Subject 3 had his arms outstretched and turned over onto his stomach just prior to Detective C delivering his/her kick to Subject 3’s right side. The BOPC considered that Detective C then grabbed ahold of Subject 3’s right wrist and utilized his/her bodyweight to control the subject’s movement.

In this case, the BOPC would have preferred a more coordinated effort in approaching the subjects and clear contact and cover roles; however, the BOPC acknowledged that the OIS was a dynamic and chaotic encounter. The single kick from Detective C did not appear to be warranted as Subject 3 appeared to be compliant; however, his/her firm grip on Subject 3’s right wrist and bodyweight to control Subject 3 was the sufficient amount of force required to maintain control and allow Subject 3 to be taken into custody without further incident.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective C, while faced with similar

circumstances, would not believe that this specific application of a non-lethal kick was objectively reasonable.

Therefore, the BOPC found this specific application of Detective C's non-lethal force (Strike/Kick) to be Out of Policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective C, while faced with similar circumstances, would believe that the applications of non-lethal force would be objectively reasonable to control Subject 3 until he/she was taken into custody.

The BOPC found the applications of Detective C's non-lethal use of force [(1) Firm Grip, (1) Bodyweight] to be In Policy.

- **Officer A** – (1) Strike/Kick, (1) Bodyweight, (1) Physical Force, (3) Firm Grip

According to the FID investigation, upon reaching Subject 2, Officer A delivered a single kick to the right side of Subject 2's body (**Officer A Strike/Kick – 1**). Officer A dropped down to his/her knees and straddled Subject 2's waist (**Officer A Bodyweight – 1**). As he did so, Subject 2 moved both of his hands under his chest and attempted to roll over. Officer A applied downward pressure to Subject 2's left shoulder blade with his/her left forearm (**Officer A Physical Force – 1**). Simultaneously, he/she reached under Subject 2 and grabbed his right arm with his/her right hand and moved it behind Subject 2's back (**Officer A Firm Grip – 1**). After obtaining control of Subject 2's right arm, Officer A utilized his/her left hand to grab and assist in maintaining it behind Subject 2's back (**Officer A Firm Grip – 2**). Subject 2 then moved his left hand behind his back, where Officer A grabbed it with his/her left hand (**Officer A Firm Grip – 3**). Officer A held Subject 2's hands together with his/her left hand while he/she applied handcuffs with his/her right hand.

According to Officer A, he/she observed Subject 2 looking up at him/her as he/she approached. Officer A wanted to get up to Subject 2 quickly and believed that his/her foot struck Subject 2; however, he/she did not intend to deliver a kick. Officer A observed Subject 2 tuck his hands underneath his body. Officer A then utilized his/her bodyweight as he/she got on top of Subject 2 and straddled him. Officer A grabbed Subject 2's right arm and attempted to "pull a hand out, but also applying pressure to his shoulder so he stays pinned down." Officer A utilized his/her left elbow to apply pressure and attempt to gain control of Subject 2's arm. After gaining control of Subject 2's right arm, Subject 2 provided his left arm to Officer A who handcuffed him without further incident.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Officer A's use of non-lethal force with particular attention given to single kick delivered to Subject 2 as Officer A approached. The BOPC noted Subject 2 laid faced down on the ground and placed his hands outstretched in front of him prior to Officer A approaching him. The BOPC considered that Officer A stated he/she

observed Subject 2 looking up at him/her, and based on the chaotic OIS that had just occurred, he/she intended to quickly close distance and initiate physical contact with Subject 2 and take him into custody as soon as he/she could.

The BOPC noted the incident was chaotic and placed a high amount of stress on the personnel involved. The BOPC considered the FID investigation determined Officer A did utilize a kick as he/she approached Subject 2. The BOPC opined that Officer A's emotional state from the highly stressful OIS in which he/she was confined to the rear of the van would have continued to affect his/her outlook on the tactical situation. The BOPC noted that strikes and kicks are utilized based on a subject's specific actions such as where a subject may be reaching for a weapon or toward a pocket which may contain a weapon. However, in this case, Subject 2 was in a prone position and had his arms outstretched in front of him just prior to Officer A delivering a kick to Subject 2's right side. The BOPC opined that based on the FID investigation and the evidence, it appeared that Subject 2 was compliant, and the kick utilized by Officer A was not warranted.

The BOPC considered that Officer A then utilized his/her bodyweight to limit Subject 2's movement, as Subject 2 began to resist and place his arms underneath his body. The BOPC noted that Officer A utilized physical force and firm grips to gain control of Subject 2's arms, overcome Subject 2's resistance, and take Subject 2 into custody without further incident.

In this case, the BOPC would have preferred a more coordinated effort in approaching the subjects and clear contact and cover role; however, the BOPC acknowledged that the OIS was a dynamic and chaotic encounter. The single kick from Officer A as heshe/ quickly closed distance with Subject 2 did not appear to be warranted; however, his/her utilization of bodyweight, physical force, and firm grips on Subject 2 to control Subject 2 was the sufficient amount of force required to maintain control, overcome Subject 2's resistance, and take him into custody.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would not believe that this specific application of a non-lethal kick was objectively reasonable.

Therefore, the BOPC found this specific application of Officer A's non-lethal force (Strike/Kick) to be Out of Policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would believe that the other applications of non-lethal force would be objectively reasonable to overcome Subject 2's continued resistance.

Therefore, the BOPC found the applications of Officer A's non-lethal use of force [(1) Bodyweight, (1) Physical Force, and (3) Firm Grips] to be In Policy.

- **Officer C – (1) Bodyweight, (3) Firm Grips**

According to the FID investigation, as Officer C and Detective C closed to within one foot of Subject 3, Subject 3 rolled onto his stomach, but kept his left arm and the left side of his chest off of the ground. Detective C then delivered a single kick to the right side of Subject 3's torso. Subject 3 then moved his hands behind his back. Officer C then reached down and grabbed Subject 3's left wrist with his/her left hand and holstered his/her service pistol (**Officer C Firm Grip – 1**). Simultaneously, Detective C grabbed Subject 3's right wrist with his/her left hand and placed it in the center of Subject 3's back before he/she placed his/her left knee and bodyweight on top of Subject 3's right forearm and right shoulder. Once Detective C had control of Subject 3's right wrist, Officer C relinquished Subject 3's left wrist and moved north toward Subject 1 with Officer B. Once Subject 1 was on his stomach, Officer C immediately placed his/her right knee on the small of Subject 1's back (**Officer C Bodyweight – 1**). Simultaneously, Officer C grabbed Subject 1's wrists and held them behind his back while Officer B holstered his/her service pistol and handcuffed him (**Officer C Firm Grips 2 – 3**).

According to Officer C, as he/she approached the subjects from the rear of their vehicle, he/she grabbed Subject 3's arm and "got a firm grip on it," at which time he/she handed Subject 3's arm back to Detective C. Once Officer C felt comfortable that Detective C had control of Subject 3's arm, he/she immediately approached Subject 1 and utilized his/her bodyweight by placing his/her knee on Subject 1's back. Officer C then grabbed Subject 1's right arm and placed it behind his back. Officer C then "grabbed the left arm" and did the same thing. Officer C maintained control of Subject 1's arms behind his back as Officer B handcuffed Subject 1 without further incident.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Officer C's use of non-lethal force. The BOPC noted that Officer C approached Subject 3 with Detective C. Officer C transitioned to the role of contact officer and grabbed Subject 3's left wrist. The BOPC considered that Subject 3 turned over into a prone position and had his arms outstretched as Detective C and Officer C approached. Officer C believed that Detective C had gained control of Subject 3, and Officer C quickly transitioned to the contact officer for Subject 1 who was a short distance away. Officer C utilized his/her bodyweight to control Subject 1's movements and then utilized firm grips to maintain control of Subject 1's arms until he was handcuffed by Officer B.

The BOPC considered the incident was chaotic and placed a high amount of stress on the personnel involved. The BOPC noted that Officer C maintained his/her role as the contact officer; however, he/she transitioned between subjects prior to Subject 3 being handcuffed. The BOPC noted that Officer C stated he/she only transitioned once he/she believed Detective C had sufficient control of Subject 3. The BOPC considered that Officer C utilized a firm grip to control Subject 3 then

utilized his/her bodyweight to limit Subject 1's movement. The BOPC noted that Officer C utilized firm grips to gain control of Subject 1's arms and maintained control of Subject 1 until he was taken into custody. The BOPC opined Officer C's intention was to maintain control of the subjects so they could be taken into custody without incident and utilized the minimal amount of force necessary to control them.

In this case, the BOPC would have preferred a more coordinated effort in approaching the subjects. The BOPC would have preferred that Officer C had maintained his/her contact role with Subject 3; however, the BOPC acknowledged that the OIS was a dynamic and chaotic encounter requiring adaptable tactics. Officer C's utilization of a firm grip on Subject 3 and bodyweight and firm grips on Subject 1 to control both subjects was the sufficient amount of force required to maintain control and take both subjects into custody.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, while faced with similar circumstances, would believe that the applications of non-lethal force would be objectively reasonable to maintain control of Subjects 1 and 3 until they were taken into custody.

Therefore, the BOPC found the applications of Officer C's non-lethal use of force [(1) Bodyweight, (1) and (3) Firm Grips] to be In Policy.

In sum, the BOPC found Detectives A [(1) Strike/Kick] and C [(1) Strike/Kick] and Officer A's [(1) Strike/Kick] non-lethal use of force to be Out of Policy. The BOPC found Detective C's [(1) Firm Grip, (1) Bodyweight] and Officers C and A's [(1) Physical Force, (6) Firm Grip, and (2) Bodyweight] non-lethal use of force to be In Policy.

D. Lethal Use of Force

- **Detective A** – (pistol, five rounds, two volleys)

Background: The FID investigation determined that the background during the OIS, was a brick wall located on the southern portion of the gas station for Detective A's first volley of two rounds and the southern portion of the convenience store and an adjacent utility area for the second volley of three rounds. The FID investigation revealed that Detective A discharged five rounds in two separate volleys during the incident. Detective A only recalled discharging his/her service pistol twice in an easterly direction while he/she was behind a metal box and Subject 1 was running.

Volley One – Two rounds discharged in a southerly direction.

The FID investigation revealed at the time Subject 1 was running in a northwesterly direction and a round was observed striking the pavement south of pump number three, Detective A was partially obscured from the gas station camera's view by a

gas pump and metal pillar. While in this area, Detective A could be seen extending his/her arms toward Subject 1 in an isosceles-type shooting stance, but his/her service pistol was not visible.

Two of Detective A's discharged cartridge cases (DCCs) were recovered from the ground west of pump number one, in the area that was not captured by the gas station's security video system. The FID investigation identified one bullet pathway on the brick wall south of Detective A's location and one bullet pathway on the asphalt south and west of pump number three. The FID investigation determined the bullets that created those pathways were fired from the north to the south. This information was consistent with Detective A having fired two rounds at Subject 1 as Subject 1 re-entered the parking lot and moved in a northeasterly direction. Detective A did not recall firing his/her pistol at this point in the encounter.

Volley Two – Three rounds discharged in an easterly direction.

According to Detective A, he/she was the driver of the van. He/she drove toward the area of the gas station to assist the other personnel. As he/she approached the location, he/she heard Officer C broadcast, "In the gas station, in the gas station to your right, silver car," at which time Detective A drove east into the gas station. Detective A observed a male wearing a white long sleeve shirt pointing a gun toward his/her direction, and he/she observed a red laser. Detective A observed what he/she believed was muzzle flash and heard rounds coming toward his/her van. Detective A heard Officer A, who was in the rear seat of the van begin firing toward the subject. Detective A immediately exited his/her vehicle and redeployed to the rear of his/her van when he/she observed the subject who was shooting at them, run toward the roadway. Detective A lost sight of the subject for a brief moment and then observed him come back into his/her view. Detective A indicated that he/she observed the subject was armed with a gun and looked toward Detective A. Detective A observed the subject with his elbow bent and his hand tucked near his right thigh and his waistband area. Detective A believed the subject was going to turn and shoot at him/her. Based on his/her belief that the subject had already fired at him/her and his/her partners, was armed with a handgun, as well as his/her fear for the safety of his/her partners and him/herself, Detective A discharged three rounds from his/her service pistol at the torso area of the subject. Detective A believed "it was necessary to fire at him to protect my life and the life of my partners." Detective A observed the subject falling to the ground and heard a metal sound hitting the concrete. Detective A lost visual of the subject, assessed, and determined the subject no longer presented an imminent lethal threat. Detective A believed he/she only discharged two rounds from his/her service pistol during this time.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness and necessity of Detective A's use of lethal force. The BOPC noted the investigation determined that Detective A discharged two rounds in his/her first volley as Subject 1 stumbled as he ran back in a northeasterly direction in the gas

station parking lot and continued to run back toward the subject's vehicle. However, Detective A did not recall discharging those rounds. The BOPC considered the incident was chaotic and placed a high amount of emotional strain on the personnel involved.

In this case, Detective A was the driver of the van and drove into the gas station believing that the personnel in the unit needed assistance. He/she heard broadcasts as he/she entered the gas station parking lot that there was a subject armed with a gun just prior to Subject 3 beginning to fire upon the van. The BOPC noted that Detective A stopped the van believing it would be more tactically disadvantageous to drive away from the scene and deployed from the vehicle. The BOPC considered that Detective A observed Subject 1 run in a southwesterly and mistakenly believed Subject 1 to be the same subject that had just shot at them. The BOPC noted that Subjects 1 and 3 were wearing similar clothing and Subject 1 ran past Subject 3 as he fled. Detective A began to move in a southerly direction as he/she maintained visual contact with Subject 1 and briefly lost sight of Subject 1 as he ran south. When Subject 1 came back into his/her view, Detective A believed he/she observed the barrel of a handgun in Subject 1's right hand and believed Subject 1 was looking to locate his/her position so he could begin shooting at him/her. The BOPC noted Detective A did not specifically recall discharging his/her first two rounds; however, Detective A did hear gunfire and believed Subject 1 was shooting at him/her or other people in the area.

As Detective A observed Subject 1 continue running toward the subjects' vehicle, Detective A observed Subject 1's right elbow bent as if he were preparing to raise the handgun Detective A believed him to be armed with and fire at him/her, at which time he/she discharged three rounds at Subject 1. The BOPC noted that Detective A recalled only discharging two rounds during this sequence.

The BOPC noted that Detective A believed Subject 1 to be Subject 3, who began firing at them as they entered the gas station parking lot and therefore believed Subject 1 to be armed. However, Detective A did not recall discharging his/her service pistol and therefore could not articulate his/her rationale for discharging his/her service pistol at that time. The BOPC opined that based on a thorough review of the evidence presented by the FID investigation, it did not appear to show Subject 1 with his arms extended or presenting an imminent lethal threat at the time.

The BOPC considered that Subject 1 appeared to be running away from the personnel and then proceeded back towards the subjects' vehicle and though he made movements towards his waistband, Detective A misidentified Subject 1 and did not clearly ascertain the immediacy of the lethal threat at the time. The BOPC was also critical of the lack of communication while this was occurring as Detective A was unaware there were multiple subjects or that the personnel in the other vehicle had redeployed and misidentified the OIS involving Detective C and Officer B as Subject 1 shooting at him/her or others. The BOPC opined the poor tactical planning and lack of tactical communication in conjunction with the acute focus on

Subject 1 was a significant factor which caused Detective A to have poor situational awareness and led to the misidentification of Subject 1 presenting an imminent lethal threat as Subjects 2 and 3 were the subjects who were armed and firing at the personnel.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective A, would reasonably believe that Subject 1's actions did not present an imminent threat of death or serious bodily injury and that the use of deadly force would not be objectively reasonable and necessary.

Therefore, the BOPC found Detective A's lethal use of force for rounds one through five (Volleys One and Two) to be Out of Policy.

- **Detective B** – (pistol, one round)

Background: The FID investigation determined that the background during the OIS, was a brick wall located on the southern portion of the gas station.

According to Detective B, he/she was the front passenger in the van as it drove east into the parking lot of the gas station. As the van began to slow down, Detective B observed "a bright red light pointed in [the officers'] direction," and formed the opinion that it was a laser sight for a pistol. Immediately after seeing the light, Detective B began hearing gunshots and felt an impact to the van. Detective B observed a male in his mid-20s wearing a "white top and light-colored jeans," begin fleeing in a southwesterly direction. As the subject was running, Detective B exited the van and observed the subject had his right arm "outstretched back toward me [Detective B] and there was like a little stutter step and I thought he was going to kind of turn again and engage us." Based on his/her belief that the subject was armed with a handgun and had already fired at personnel, as well as the subject's movement of turning back toward Detective B with his arms outstretched, caused Detective B to be in fear of "getting shot or one of my partner's getting shot." Detective B discharged one round from his/her service pistol to stop the lethal threat presented by the subject's actions. Detective B assessed and did not fire additional rounds due to potential crossfire with the other personnel.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness and necessity of Detective B's use of lethal force. The BOPC noted the investigation determined Detective B discharged one round as Subject 1 ran in a southwesterly direction from an approximate distance of 60 feet. The BOPC considered the incident was chaotic and placed a high amount of emotional strain on the personnel involved.

In this case, Detective B was the front passenger of the van as it was driven into the gas station. As the van began to slow down, he/she observed a red light pointed toward the van, formed the opinion it was a laser sight for a handgun and began

hearing gunshots as well as impacts to the van. The BOPC noted that Detective B observed Subject 1 run in a southwesterly direction and mistakenly believed him to be the same subject who had just shot at them. The BOPC noted that Subjects 1 and 3 were wearing similar clothing, and Subject 1 ran past Subject 3 as he fled. Detective B exited the van, believed Subject 1 was armed, and observed Subject 1 with his right arm outstretched back toward Detective B. Detective B discharged one round from his/her service pistol due to his/her belief Subject 1 was going to turn around and fire at him. The BOPC noted that Detective B was only aware of one subject at the time he/she discharged his/her service pistol.

The BOPC noted that Detective B believed Subject 1 to be Subject 3, who began firing at the officers as they entered the gas station and therefore believed Subject 1 to be armed. The BOPC opined that based on a thorough review of the evidence presented by the FID investigation, it did not appear to show Subject 1 with his arm outstretched or present an imminent lethal threat at the time. The BOPC considered that Subject 1 appeared to be running away from Detective B, was approximately 60 feet away, and that Detective B misidentified Subject 1 and did not clearly identify the imminency of the lethal threat at the time. The BOPC was critical of the lack of communication while this was occurring as Detective B was unaware there were multiple subjects who fired upon the van during this time. The BOPC opined the poor tactical planning and lack of tactical communication in conjunction with the acute focus on Subject 1 was a significant factor which caused Detective B to have poor situational awareness and led to the misidentification of Subject 1 presenting an imminent lethal threat as Subjects 2 and 3 were the subjects who were armed and fired at the personnel.

The BOPC acknowledged that Detective B demonstrated great restraint and assessed as expected by only discharging one round during the dynamic and chaotic incident. However, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective B, would reasonably believe that Subject 1's actions did not present an imminent threat of death or serious bodily injury and that the use of deadly force would not be objectively reasonable and necessary.

Therefore, the BOPC found Detective B's lethal use of force to be Out of Policy.

- **Detective C** – (pistol, three rounds)

Background: The FID investigation determined that the background during the OIS was a closed metal gate of a business that was closed and empty for all three rounds.

Volley One – One round discharged in an easterly direction.

According to Detective C, he/she was the rear driver's side passenger in the vehicle parked under the freeway overpass. As they drove south as the OIS began with the

subjects and the personnel in the van, Detective C observed the subject he/she believed initially pointed a gun at him/her was running south, attempting to flee. Detective C believed the subject was armed with a firearm based on his belief it was the same subject who pointed a gun when the officers had driven through the gas station. As Officer B stopped the vehicle to effect the arrest, Detective C exited the vehicle and yelled, "Stop." Detective C observed the subject, "almost like dipped down, reached with his shirt, lifted up his shirt, reached for the waistband, and then began to come up as if he was drawing from his waistband and was going to shoot from over his shoulder." Based on his/her belief that the subject was the same subject who was armed with a handgun and already pointed that handgun at Detective C and his/her partners, in conjunction with his observations of the subject's movements of reaching towards his waistband and his/her fear for the safety of Officer B and his/her own safety, Detective C discharged one round from his/her service pistol at the subject's right flank.

Volley Two – One round discharged in an easterly direction.

According to Detective C, immediately after discharging his/her first round, he/she observed the subject turn around and run back north as the subject looked in his/her direction and "then lifted up his shirt again and went to his waistband." Based on his/her continued belief that the subject was armed with a handgun and the subject's continued actions of lifting his shirt and reaching for his waistband, Detective C discharged one additional round from his/her service pistol while targeting the left side of the subject's body.

Volley Three – One round discharged in an easterly direction.

According to Detective C, he/she followed after the subject as the subject fled in a northeasterly direction in the gas station. As Detective C turned the corner, he/she observed the subject "looking back with his hand still at his waistband and lifting up his shirt." Detective C believed the subject was looking over at him/her with the intention to draw his handgun and point at Detective C and fire. Based on his/her belief that the subject was armed with a handgun, the subject's continuing actions of reaching into his waistband, and Detective C's fear for his/her life, he/she discharged one additional round from his/her service pistol while targeting the subject's back. Detective C observed the subject throw himself on the ground near the subject's vehicle and assessed that he no longer presented an imminent lethal threat.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness and necessity of Detective C's use of lethal force. The BOPC noted the investigation determined Detective C discharged three rounds as Subject 1 ran in a southerly and northerly direction. The BOPC considered the incident was chaotic and placed a high amount of emotional strain on the personnel involved.

In this case, Detective C was the rear driver's side passenger in his/her vehicle. Officer B, the driver, drove south as the OIS began with the subjects and the

personnel in the van. The BOPC noted Detective C observed Subject 1 and believed he was Subject 3, the subject who initially pointed a gun at him/her when the officers drove through the gas station. Detective C observed Subject 1 running in a southwesterly direction. As Officer B stopped the vehicle in the number one lane of traffic, Detective C exited the vehicle and believed he/she commanded Subject 1 to “stop.” Detective C observed Subject 1’s movements which included reaching for his waistband and coming up as if he intended to fire his handgun. The BOPC noted Detective C believed the subject was armed with a handgun based on his/her belief that the Subject 1 was Subject 3; however, Detective C did not observe Subject 1 was armed with a handgun in his hands.

The BOPC noted that Detective C believed Subject 1 to be Subject 3, who had initially pointed a handgun at him/her when Officer B had driven through the gas station at the onset of the incident, and therefore believed Subject 1 to be armed. The BOPC considered that Officer B stopped in relatively close proximity to Subject 1, and it appeared Subject 1 was attempting to run south and then proceeded back north. The BOPC noted the investigation determined that Subject 1 was not armed with a handgun, and that Detective C did not observe a handgun in Subject 1’s waistband or in his hands. The BOPC opined that though an analysis of the evidence from the FID investigation showed that though Subject 1 reached in the area of his waistband as he was running, the tactical deployment of the detective’s vehicle combined with Detective C’s mindset and intention of apprehending and effecting an arrest on Subject 1, who was believed to be armed, was a contributing factor. The BOPC was critical of the lack of communication between the personnel due to the fact that while this was occurring, the personnel in the van were unaware of there being multiple subjects who were the individuals firing upon the occupied van. The BOPC opined that the poor tactical planning and lack of tactical communication in conjunction with the acute focus on Subject 1 was a significant factor which caused Detective C to have poor situational awareness and led to the misidentification of Subject 1 presenting an imminent lethal threat as he/she was aware that there were two subjects with similar clothing and assumed Subject 1 was Subject 3.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Detective C would reasonably believe that Subject 1’s actions did not present an imminent threat of death or serious bodily injury and that the use of deadly force would not be objectively reasonable and necessary.

Therefore, the BOPC found Detective C’s lethal use of force for rounds one through three (Volleys One, Two, and Three) to be Out of Policy.

- **Officer A** – (pistol, 18 rounds, two volleys)

Background: The FID investigation determined the background during the OIS was a utility area for the seven rounds discharged in a southeasterly direction and then a brick wall located on the southern portion of the gas station for the six rounds

discharged in a southerly to southwesterly direction as part of volley one; and the five rounds discharged in the same direction for volley two.

Volley One – Thirteen rounds discharged in a southeasterly direction from an approximate increasing distance of 52-67 feet (7 rounds in a southeasterly direction and 6 rounds in a south to southwesterly direction).

The FID investigation revealed that after firing several rounds at Subject 3, Officer A turned to his/her right (southwest). At that point, additional muzzle flashes could be seen coming from Officer A's service pistol as Subject 1 ran southwest across the parking lot. Officer A specifically recalled observing two male subjects who were both wearing white shirts. He/she was not aware of Subject 2 (who was wearing an orange shirt) until after the OIS.

According to Officer A, he/she was the rear driver's side passenger of the van as it drove east into the gas parking lot. Officer A observed a male wearing a white shirt holding a handgun, stainless steel in color, which was pointed in the direction of the van. As the van came to a stop, Officer A heard "shots being fired in [the officers'] direction and muzzle flash from the [subject] observed holding the handgun." Officer A additionally heard what he/she believed were rounds impacting the occupied van. Officer A observed the subject standing by the subjects' vehicle and actively firing at Officer A and his/her partners. Officer A was in fear for his/her life and his/her partners' lives and began to return fire once his/her partners cleared the area in front of him/her. Officer A believed he/she needed to immediately stop the imminent lethal threat that was presented to him/her. Officer A began discharging rounds from his/her service pistol at an increased pace due to fact that he/she believed he/she and his/her partners were trapped in the van, in a severe tactical disadvantage, and were "sitting ducks." Officer A's intention in returning fire at a rapid pace at the subjects was to allow his/her partners to exit the van and to put the subjects in a more defensive mode so that his/her partners could redeploy and assist with addressing the imminent lethal threat that was presented.

Volley Two – Five rounds discharged in a southeasterly direction from an approximate distance of 52 feet.

The FID investigation revealed that once Officer D exited the van, Officer A raised his/her service pistol and discharged a second volley of five rounds from his/her position in the van. Officer A discharged these rounds toward Subject 3 who was positioned near the subjects' vehicle. Officer A was not aware that he/she fired in two distinct volleys, or that he/she ever fired west of Subject 3's position. Officer A only recalled firing at Subject 3 while he was near the subjects' vehicle and did not recall ever firing at Subject 1 during the OIS.

According to Officer A, he/she observed the subject redeploy to the rear of his vehicle and continue moving around, back and forth utilizing his vehicle as cover. Due to the subject continuing to actively shoot at him/her, Officer A continued to

discharge rounds from his/her service pistol while targeting the subject's upper chest and head area which is all he/she had visual of. Officer A stated he/she was stuck in the vehicle and believed it was necessary to return fire to stop the imminent lethal threat that was presented to him/her. Officer A continued to fire his/her service pistol until his/her service pistol went into slide lock and was out of ammunition. Officer A reloaded his/her service pistol, assessed, and determined the shooting had stopped and there was no longer an imminent lethal threat presented by the subject.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness and necessity of Officer A's use of lethal force. The BOPC noted the FID investigation determined that Officer A discharged 13 rounds in his/her first volley of fire with seven rounds directed at Subject 3 and six rounds directed at Subject 1 as he ran in a southwesterly direction. The BOPC considered Officer A did not recall discharging his/her service pistol toward Subject 1 during the incident. Additionally, the BOPC noted Officer A then discharged a second volley of five rounds back toward Subject 3 before running out of ammunition. The BOPC considered the incident was chaotic and placed a high amount of emotional strain on the personnel involved.

In this case, Officer A was the rear driver's side passenger of the van as it drove east into the gas station parking lot. Officer A observed a male subject wearing a white shirt holding a handgun, stainless steel in color, which was pointed in the direction of the occupied van. The BOPC noted that as the van came to a stop, Officer A heard gunfire, observed muzzle flash, and heard the impact of rounds striking the van. Officer A was mindful of the fact that the personnel were in a tactically disadvantageous position, were being fired upon, and needed to defend their lives. The BOPC noted Officer A observed Officer D go down and believed he/she may have been struck by gunfire. Officer A began discharging rounds toward Subject 3 through the rear sliding door window to stop the imminent threat presented by Subject 3 and to allow his/her partners to exit the van.

Officer A believed he/she needed to immediately stop the imminent lethal threat that was presented to him/her. Officer A began discharging rounds from his/her service pistol at an increased pace due to fact that he believed he/she and his/her partners were trapped in the van, in a severe tactical disadvantage, and were "sitting ducks." Officer A's intention in returning fire at a rapid pace at the subjects was to allow his/her partners to exit the van and to put the subjects in a more defensive mode so that his/her partners could redeploy and assist with addressing the imminent lethal threat that was presented.

The BOPC noted Officer A believed he/she was trapped in the rear of the van and was receiving gunfire, which resulted in him/her rapidly discharging his/her service pistol toward the threat to allow his/her partners to exit the van safely and place the subjects in a more defensive position which would allow for redeployment to a better tactical position. The BOPC found that all rounds discharged toward Subject 3 were reasonable and necessary based on Subject 3 continuously firing at the occupied

van throughout the incident. However, the BOPC noted that though Officer A did not recall discharging his/her service pistol toward Subject 1, the FID investigation revealed Officer A did discharge his/her service pistol at Subject 1 as he fled in a southwesterly direction. The BOPC considered that Officer A was placed in a poor tactical position based on the positioning of the van by Detective A and was under a high amount of physical and emotional strain during the incident. However, the BOPC opined that based on a thorough review of the evidence presented by the investigation, it did not appear to show Subject 1 presenting an imminent lethal threat at the time he was running in a southwesterly direction. The BOPC noted it is essential to properly identify and assess the actions of subjects and whether they present an imminent lethal threat prior to utilizing deadly force.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that Subject 3's actions presented an imminent threat of death or serious bodily injury and that the use of deadly force would be objectionably reasonable and necessary. However, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that Subject 1's actions did not present an imminent threat of death or serious bodily injury and that the use of deadly force would not be objectively reasonable and necessary.

Therefore, the BOPC found Officer A's lethal use of force for rounds one through seven and 14 through 18 (First part of Volley One and Volley Two) to be In Policy. The BOPC found Officer A's lethal use of force for rounds eight through 13 (Second part of Volley One) to be Out of Policy.

- **Officer B** – (pistol, six rounds, two volleys)

Background: The FID investigation determined that the background during the OIS, was a closed metal gate of a business that was closed and empty for all six rounds.

Volley One – Four rounds discharged in an easterly direction.

According to Officer B, he/she was the driver of the his/her vehicle. Officer B began driving south as he/she observed the van pulling into the parking lot of the gas station. Officer B immediately heard rounds being fired in rapid succession which caused him/her to form the opinion that the subject was trying to kill all the officers. Officer B observed a subject "running southbound on the east side of the curb," and immediately went into containment mode. Officer B indicated that he/she observed the subject was armed with a gun in his right hand. As he/she approached the subject, he/she intended to maintain a safe distance while keeping visual contact; however, the subject saw his/her vehicle, conducted "a counterclockwise turn," looked at Officer B, and with his right-hand which Officer B believed was holding a handgun, pointed that hand towards him/her. Officer B believed the subject was

really close to him/her, that he was going to kill him/her, and was scared for his/her life. Officer B discharged his/her service pistol four times to stop the imminent lethal threat presented by the subject's actions.

Volley Two – Two rounds discharged in an easterly direction.

According to the FID investigation, Officer B recalled firing two or three rounds during this incident and believed the vehicle he/she was driving was stopped at the time. Additionally, at the point he/she recalled firing, Officer B estimated Subject 1 was approximately two arm lengths away from him/her. The FID investigation determined Officer B fired a total of six rounds. An analysis of the security video footage showed approximately four muzzle flashes emanating from the driver's window of Officer B's vehicle as it slowed to a stop. Two additional muzzle flashes were then seen once the vehicle stopped. At the point Subject 1 turned and began running north, he was outside of the camera's view. Although Subject 1's exact location at that point could not be identified, FID investigators determined Subject 1 was no closer than approximately 15 feet to the vehicle.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness and necessity of Officer B's use of lethal force. The BOPC noted the investigation determined that Officer B discharged six rounds in two volleys of fire as Subject 1 ran in a southerly direction. The BOPC considered that the incident was chaotic and placed a high amount of emotional strain on the personnel involved.

In this case, Officer B was the driver of the vehicle. Officer B began driving south as he/she observed the van pulling into the parking lot of the gas station. The BOPC considered that Officer B immediately heard rounds being fired in rapid succession as the van entered the gas station. Officer B observed Subject 1 running south on the east curb and believed he/she went into containment mode. The BOPC noted Officer B stated that he/she observed the subject was armed with a gun in his right hand as he/she closed distance with the subject with his/her vehicle. As Officer B was coming to a stop, he/she indicated that he/she observed Subject 1 turn around and point a handgun toward him/her from a close proximity and discharged his/her service pistol to stop the imminent lethal threat he/she perceived.

The BOPC noted Officer B articulated that his/her intention was to remain in containment mode to maintain a safe distance with Subject 1. However, the BOPC was critical of his/her control of the vehicle, as the evidence provided by the investigation determined Officer B closed distance quickly and stopped his/her vehicle in relatively close proximity to Subject 1 as Subject 1 was attempting to run south. The BOPC noted that the investigation determined Subject 1 was not armed with a handgun, and though Officer B observed Subject 1 armed with a handgun, Detective C, who was seated just behind him/her did not observe a handgun in Subject 1's waistband or in his hands. The BOPC noted that Officer B believed he/she discharged two to three rounds and that Subject 1 was within two arm's length at the time of the OIS; however, the investigation determined he/she

discharged six rounds in two volleys of fire and that the OIS occurred at no closer than 15 feet. The BOPC considered that the investigation also determined Officer B discharged his/her first volley of four rounds while the vehicle was still moving and slowing to a stop. The BOPC opined that though an analysis of the evidence from the investigation showed though Subject 1 reached in the area of his waistband as he was running, Officer B's attempt to focus on multiple tasks, including maintaining control, and the tactical deployment of the vehicle in conjunction with assessing the Subject 1's actions while drawing/exhibiting his/her service pistol were significant factors in assessing if there was an imminent lethal threat presented by Subject 1.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe that Subject 1's actions did not present an imminent threat of death or serious bodily injury and that the use of deadly force would not be objectively reasonable and necessary.

Therefore, the BOPC found Officer B's lethal use of force for rounds one through six (Volley One and Two) to be Out of Policy.

In sum, the BOPC found Detectives A, B, and C's [(5) rounds, (1) round, and (3) rounds respectively], and Officers A and B's [(6) rounds] lethal use of force to be Out of Policy. The BOPC found Officer A's [(12) rounds] lethal use of force to be In Policy.