

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

**OFFICER-INVOLVED SHOOTING – 042-12**

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

N. Hollywood    6/14/12

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

Lieutenant A	22 years, 4 months
Sergeant A	16 years
Officer A	3 years, 6 months
Officer B	11 years, 11 month
Officer C	4 years, 6 months
Officer D	3 years, 3 months
Officer I	7 years
Officer J	3 years
Officer K	5 years
Officer L	9 years
Officer M	17 years

**Reason for Police Contact**

The Subject simulated pointing a handgun at the end of a vehicle pursuit, resulting in an officer-involved shooting.

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

Subject: Male, 59 years of age.

**Board of Police Commissioners' Review**

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

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on May 21, 2013.

### **Incident Summary**

Communications Division (CD) broadcast a radio call of a shooting in progress. CD made additional broadcasts describing the Subject as a male armed with a handgun; that a victim was down in front of the location; and that the Subject was wearing a white tee-shirt and tan shorts and had blood on the front of his shirt.

**Note:** A subsequent double homicide investigation determined that the Subject had shot and killed Victims A and B using a .357 Magnum caliber revolver.

Uniformed Police Officers A and B were driving a marked black and white police vehicle. The officers had previously heard the aforementioned radio broadcast of the shooting incident and were conducting a traffic stop in a nearby area when they were flagged down by a male who advised them of a nearby shooting.

The officers immediately responded to that location and advised CD that they had arrived at the shooting scene. Witnesses pointed out the Subject to the officers and advised them he was the shooter. The Subject was seated in the driver's seat of a silver vehicle that was parked in the driveway of a residence. The officers observed blood on the front of his shirt. As the officers exited their vehicle and unholstered their weapons to confront the Subject, he backed out of the driveway and fled down the street. The officers holstered, re-entered their vehicle and began to follow the Subject.

The officers notified CD that they were pursuing the shooting Subject. CD subsequently broadcast, that the officers were "in pursuit of a shooting su[bj]ject, [...] requesting a backup, an Air Unit and a supervisor."

Uniformed Sergeant A, along with Officers C, D, E, F and G, and plain clothes Officer H, responded to the request for backup. Air Support Division personnel also responded and were overhead during the pursuit.

**Note:** The aforementioned officers were in full uniform and wearing their ballistic vests. Officer H was wearing his ballistic vest over his plain clothes.

Officers A and B advised CD of the license plate number of the vehicle, and indicated that there was one male occupant in the vehicle. Officers G and H advised CD that they were secondary in the pursuit.

Shortly thereafter, the Air Unit arrived over the pursuit and began broadcasting information to the pursuing and responding police units. The Air Unit also advised CD that they were not able to track and requested additional black and white units.

Sergeant A, driving a marked black and white police vehicle equipped with an emergency light bar and siren, advised CD he was in the pursuit and that he would assume the responsibility of supervisor in the pursuit.

Officers G and H relinquished their secondary position to Officers C and D. Officer D was driving a marked black and white police vehicle, which was equipped with an emergency light bar and a siren. Officers G and H continued in the pursuit due to the violent nature of the Subject's crime.

Officers E and F also joined the pursuit. Officer E was driving a black and white police vehicle equipped with an emergency light bar and siren. The Subject continued through residential neighborhoods, traveling at unsafe speeds and violating several traffic laws. He then entered the freeway and accelerated up to speeds of 100 miles per hour. The Subject swerved across lanes of the freeway and exited at an off-ramp. The Subject lost control of his vehicle on the off-ramp, left the roadway and collided with a chain link fence. The vehicle came to rest at the sidewalk of the street and an off-ramp facing towards an embankment and the off-ramp.

**Note:** The Air Unit advised CD that the subject vehicle became involved in a traffic collision at the location. The pursuit traveled 5.2 miles and lasted approximately seven minutes.

At the termination of the pursuit, additional responding units arrived at scene to render assistance. Many of these officers were identified as percipient witnesses to the Officer-Involved Shooting (OIS). Also, a secondary Air Unit arrived to provide support, and was orbiting above the primary Air Unit.

Other officers arrived at the scene soon after the termination of the pursuit who subsequently became involved in the OIS – Lieutenant A and Officers I, J, K, L and M.

Three civilian vehicles were stopped in the left lane of the off-ramp at the time the pursuit terminated. The vehicles were positioned behind one another and stopped near the Subject's vehicle from where it came to rest.

In addition, three civilian vehicles were stopped at the tri-light signal on the street when the pursuit terminated. The Subject remained seated in the driver's seat as numerous officers issued commands in English and Spanish. The Subject refused to comply with the commands and continued to sit in the driver's seat. He was observed by numerous officers holding a clear plastic bag containing an unknown substance and alternately placing the bag or substance up to his nose or in his mouth.

After approximately two minutes, the Subject opened the driver's door, got out of the vehicle and stood behind the door facing towards the officers. The Subject turned around, bent down and appeared to be reaching into the interior of his vehicle or towards his waistband area. The Subject then turned to his left in a counter-clockwise direction towards the officers while simultaneously holding and pointing a dark-colored object in his right hand at officers, and an OIS occurred.

**Note:** A revolver was discovered between the front passenger seat and the front passenger door jamb of the Subject's vehicle. The Subject was holding a black oblong sunglass case when the officers fired at him. This item was recovered approximately two to three feet away from the Subject's right hand.

The following is an account of each involved officer's actions prior to and during the OIS. It does not reflect the precise order in which each officer fired during the OIS; however, based on their respective interviews and video evidence, it appears that they all fired their weapons at nearly the same time.

**Officer A** exited the off-ramp from the freeway and stopped his police vehicle adjacent to the off-ramp, west of the Subject's vehicle. Officer A exited the vehicle and took a position behind the driver's door.

Officer A unholstered his weapon and held it with his right hand at a two-handed low-ready shooting position with his finger on the frame. While sitting in his vehicle, the Subject looked in Officer A's direction and extended his left hand outside the driver's side window and simulated a handgun firing toward Officer A. Approximately two to four minutes later, the Subject exited the vehicle and continued to sniff the contents in the plastic bag. While standing behind his vehicle driver's door, the Subject turned with his back to Officer A and his hands not visible. The Subject quickly turned around and pointed a black object, which appeared to Officer A to be a gun, at Officer A.

Officer A, in fear for his life, pointed his weapon at the Subject's upper torso and, from a distance of approximately 38 feet, fired four to six rounds from his pistol using a two-hand shooting position. Officer A stopped firing when the Subject fell to the ground, and holstered his weapon after the Subject was handcuffed.

The investigation revealed that Officer A fired a total of 11 rounds from his weapon in one volley of fire.

**Officer B** exited the passenger door of the police vehicle and unholstered his weapon with his right hand and held it in a low-ready position with his finger along the frame. Officer B maintained a position behind the passenger door and gave the Subject repeated commands in English to, "Let me see your hands." The Subject appeared to put something in his nose and at one point, he placed his hand outside the vehicle and made a motion as if he had a gun. Officer B believed the Subject pulled his finger back to simulate a trigger pull of a handgun.

The Subject exited the vehicle and quickly turned and appeared to Officer B be holding a barrel of a handgun with both hands. Officer B, fearing for his life and his partner's life, fired his pistol approximately four times at the Subject from a distance of approximately 45 feet. Officer B observed the Subject fall to the ground along with an unknown black object. Officer B holstered his weapon as the arrest team cleared the vehicle and handcuffed the Subject.

The investigation revealed Officer B fired four rounds from his weapon in one volley of fire.

**Officer D** exited the freeway off-ramp and stopped his police vehicle adjacent to the Subject's vehicle. Officer D exited his vehicle and deployed to the passenger side of a silver sedan vehicle. The silver vehicle was stopped in a lane with Witnesses A and B seated in the vehicle. Officer D ordered them out of the vehicle and directed them to move away from the location.

**Note:** Witnesses A and B moved behind a concrete wall near the intersection and did not witness the OIS. They heard officers yelling commands and later, they heard numerous gunshots.

Officer D stood behind the front passenger door of the vehicle and unholstered his pistol with his right hand and held it in a two-handed grip pointed over the roof of the vehicle at the Subject. Officer D observed the Subject seated in his vehicle and ordered him to show his hands. The Subject responded by stating, "[Expletive] you, no, I'm not gonna." Officer D then observed the Subject appear to ingest an unknown substance from a plastic bag he was holding into his nose and mouth. Officer D continued to give the Subject commands, but the Subject refused to comply. The Subject then exited his vehicle. Officer D heard officers close to his position order the Subject to drop his gun. The Subject stood at the driver's door and looked at the officers before turning his back away from the officers. Officer D ordered the Subject to turn around and show his hands. Officer D then observed the Subject remove an object from his right pocket with his right hand and cup the object with both hands as he turned left, in what appeared to be a shooting stance. Officer D believed the object was a handgun and feared the Subject would shoot him. From a distance of approximately 38 feet, Officer D fired his pistol approximately six to eight times over the top of the silver vehicle. Officer D observed the Subject fall to the ground and then heard a broadcast of, "Cease fire," over the police radio. He holstered his weapon once the Subject had been handcuffed.

The investigation revealed Officer D fired ten rounds from his weapon in one volley of fire.

**Officer C** exited the front passenger door of the police vehicle and moved to cover behind the right rear passenger area of the silver vehicle. Officer C unholstered his pistol with his right hand, held it in a two-handed shooting position and pointed it in the direction of the Subject, who was seated in his vehicle. The Subject was moving inside the vehicle compartment and appeared to reach under his seat and place something in

his mouth. The Subject then exited the vehicle and placed his back towards the officers. Officer C noted the Subject's hands were in front of him near his waistband area. Officer C then observed the Subject as he turned and punched his right hand out over the top of his driver's door.

Officer C observed the Subject holding a black object which Officer C believed was a handgun. Fearing for his life, Officer C fired thirteen rounds at the Subject from a distance of approximately 42 feet. Officer C then observed the Subject fall to the pavement and heard an unknown person yell, "Cease fire, cease fire," from the area of the freeway embankment.

Officer C stopped firing his pistol and conducted a speed reload. He then holstered his pistol when he observed an arrest team being formed. The investigation revealed Officer C fired 13 rounds from his weapon in one volley of fire.

**Sergeant A** parked his vehicle on the off-ramp of the freeway and exited. Sergeant A observed the Subject's vehicle stopped on the sidewalk of the street facing towards the off-ramp. Sergeant A exited his vehicle, moved to the rear of it and momentarily took cover while unholstering his pistol with his right hand. Sergeant A then moved towards a vehicle and observed a male seated in the driver's seat. Sergeant A knocked on the window, and directed the driver to exit the vehicle and move away from the Subject's location.

Sergeant A opened the front passenger door of the vehicle, crouched down and took a position of cover behind the front of the vehicle. Sergeant A observed other officers arriving at the scene and directed an unknown officer to get a beanbag shotgun as a less-lethal option.

Sergeant A observed the Subject still sitting in his vehicle. Officers were repeatedly giving commands to the Subject, who was failing to comply. It appeared to Sergeant A that the Subject was manipulating something in his waistband. He then observed the Subject place his cupped right hand and then his index finger up to his nose. Sergeant A believed he was ingesting some kind of narcotic. Shortly after Sergeant A arrived at the scene, he observed the Subject exit his vehicle and turn away from the officers toward the interior of his vehicle. The Subject appeared to look straight down as he reached toward his waist area with both hands. Officers continued to give the Subject commands to put his hands up, but he did not comply. The Subject then suddenly turned left, toward the officers and appeared to be in a shooting stance. The Subject pointed a large, dark, oblong object in his right hand over the driver's door at the officers who were deployed near Sergeant A. Sergeant A believed the object was a handgun.

Sergeant A, in fear for the safety of the officers and citizens, fired four to six rounds from his pistol, from a distance of approximately 52 feet, at the Subject. Sergeant A immediately assessed and observed the Subject still standing and continuing to point the weapon. Believing his rounds were ineffective, Sergeant A then fired a second

volley of four to six rounds from his weapon at the Subject, who fell to the pavement on his stomach.

Sergeant B organized an arrest team which approached the Subject and handcuffed him, at which time Sergeant A holstered his weapon.

The investigation revealed that Sergeant A fired ten rounds from his pistol in two separate volleys of fire.

**Officer I** exited onto the off-ramp from the freeway and stopped his police vehicle. Officer I exited the driver's door and ran down the off-ramp before taking a position behind the trunk of a gray vehicle. Officer I unholstered his pistol with his right hand and held it in a right two-handed shooting position over the trunk of the vehicle. Officer I pointed his pistol at the Subject, who was seated in his vehicle. Officer I heard commands being given by officers, directing the Subject to exit his vehicle and to put his hands up. The Subject cursed at the officers, then got out of his vehicle and stood behind the driver's door. As the officers gave commands to the Subject to raise his hands, he turned away from them, placing his back towards the officers.

The Subject then reached with his hands twice into the interior of the vehicle as the officers continued to give him commands to place his hands in the air. The Subject quickly turned and faced the officers. The Subject assumed a shooting position as he extended his right hand out, while holding a black object. Officer I believed the Subject was holding a handgun and fearing for his life, fired one round from his weapon at the Subject from a distance of approximately 58 feet. Before he could fire a second round, Officer I observed the Subject fall to the pavement. He holstered his weapon after the Subject was handcuffed.

The investigation revealed Officer I fired one round from his pistol.

**Officer J** exited the passenger door of his vehicle, driven by Officer O, which was parked on the freeway off-ramp. Officer J ran down the off-ramp where he observed three civilians and guided them to a wall by an apartment complex just adjacent to the off-ramp.

Officer J unholstered his pistol and moved before taking cover on the passenger side of the vehicle. Officer J positioned himself behind the vehicle's engine block, placed his upper body on the hood of the vehicle and took a two-handed shooting position over the hood.

Officer J observed the Subject exit his vehicle and faced his back to the officers. The Subject was not complying with officers' commands to raise his hands. Officer J observed the Subject appear to ingest an unknown substance from a plastic baggy. At this time, Officer J heard other officers yelling commands. The Subject then turned in a counter-clockwise direction and, with both hands, pointed an object which appeared to be a handgun in the direction of the officers.

Officer J, in fear for his safety, fired one round from his pistol at the Subject from a distance of approximately 60 feet. Officer J then observed the Subject fall to the pavement. He holstered his weapon after observing the Subject being taken into custody.

The investigation revealed Officer J fired one round from his pistol.

**Officer K** exited the passenger door of his police vehicle, parked on the freeway off-ramp, ran down the off-ramp and positioned himself between the front and rear passenger doors of the aforementioned silver vehicle, which was stopped on the off-ramp and near the Subject's location. Officer K observed civilians in the immediate area of the vehicle and directed them to leave.

Due to possibly being confronted by an armed subject, Officer K unholstered his pistol and held it in a two-handed shooting position with his arms extended over the roof of the vehicle. Officer K observed the Subject seated in the driver's seat of his vehicle and ordered him to put up his hands as he reached around inside his vehicle. Officer K formed the opinion the Subject was reloading his weapon as he looked at the officers and cursed at them.

Officer K was pointing his weapon at the Subject when the Subject exited the vehicle and appeared to be eating the contents of a plastic bag he was holding. Officer K then observed the Subject turn and reach into the vehicle, and he believed the Subject was reaching for a handgun. Officer K was unable to see the Subject's right hand, but observed him reach to the right side of his waistband when he heard an unknown officer yell, "Hands up, stop reaching, drop the gun." Officer K observed the Subject turn left toward him with his right arm extended and holding a dark object which Officer K believed to be a handgun.

Officer K fired five to seven rounds from his pistol at the Subject from a distance of approximately 39 feet. Officer K stopped firing, quickly assessed, and fired a second volley of five to seven rounds at the Subject before he observed the Subject fall down to the pavement. Officer K then conducted a tactical reload of his pistol by removing the magazine from his weapon, and inserting a fully loaded magazine into the pistol. He subsequently holstered his weapon after the Subject was handcuffed.

The investigation revealed Officer K fired a total of 16 rounds in two separate volleys of fire.

**Officer M** exited the driver's door of his police vehicle, an unmarked vehicle, which he had parked adjacent to the freeway off-ramp.

Officer M ran and took a position at the front passenger side of the vehicle, by the hood, and to the right of Officer H. He unholstered his pistol with his right hand and held it in a two-handed low ready position as he observed the Subject either crouched down or

sitting in the driver's seat with the driver's door open. The Subject then stood up and faced away from the officers. Officer M then observed the Subject turn in the direction of the officers who were deployed on the off-ramp while holding and pointing a pistol at them with both hands. Video footage indicated that as the Subject exited his vehicle, Officer M was not in the vicinity of the police vehicle. The Subject was standing outside of his vehicle for approximately 18 seconds leading up to the OIS. Approximately two seconds before the OIS, Officer M ran toward the front of the vehicle. When Officer M was approximately six steps away from the police vehicle, and while still running, he drew his pistol. As Officer M reached the area of the right front quarter panel of the police vehicle, the Subject simultaneously turned and pointed an object at the officers.

In defense of the other officers, Officer M, from a crouched, two-handed shooting position, fired eight rounds at the Subject from a distance of approximately 43 feet. Officer M observed the Subject fall to the pavement and then held his weapon at a low-ready position before holstering once the Subject was handcuffed.

The investigation revealed that Officer M fired ten rounds from his pistol during one volley of fire.

**Officer L** exited his police vehicle and retrieved his Department-approved rifle from the trunk of the vehicle. Officer L inserted a 30-round magazine into the rifle and chambered a round. Holding the rifle, Officer L sought cover and took a kneeling position next to the engine on the passenger side of the silver vehicle. Officer L pointed the rifle at the Subject and focused on him, utilizing the rifle's scope. Officer L continued to watch the Subject through his scope while also checking the rest of the vehicle for a possible second subject. Officer L observed the Subject exit his vehicle and stand at the driver's door holding a clear plastic bag in his left hand near his nose and mouth.

The Subject quickly turned toward the officers, pointing an object in their direction. Officer L formed the opinion the Subject was armed with a gun and was going to shoot at him. Officer L took a standing right-hand shooting position and fired six to eight rounds at the Subject from an approximate distance of 35 feet. Officer L heard additional gunfire and believed the Subject was returning gunfire.

Officer L believed that the Subject's rounds were striking so close to him that he was feeling debris and then a weight hitting him on his shoulder, at which point, he thought the officer next to him on his left side had gone down. Officer L ducked for cover behind the silver vehicle.

Officer L quickly rose back up to assess and observed that the Subject was down on the ground. Officer L observed officers approach the Subject's vehicle, at which time he placed the rifle's selector switch to the safe position. The investigation revealed that Officer L fired 14 rounds from his rifle in one volley of fire.

**Lieutenant A** was following the pursuit on the freeway when the vehicles exited at a freeway off-ramp. Lieutenant A stopped and parked his vehicle in the emergency lane of the freeway, adjacent to the off-ramp.

Lieutenant A exited his vehicle, retrieved his shotgun from the trunk of his vehicle and deployed back towards the off-ramp. Lieutenant A was unable to see the Subject's vehicle, so he stepped over the freeway guard rail, chambered a shotgun shell, and moved to a position of cover behind a large tree. Lieutenant A observed another police vehicle had approached, deployed on the Subject's vehicle and was now in his background, so he continued moving on the embankment. Lieutenant A then took cover behind another tree, where he could observe both the Subject's vehicle, 25 to 30 feet away, and the officers west of him on the off-ramp.

He observed there was only one person in the vehicle, and it appeared as though the Subject was talking on a flip-style cellular phone. Because the radio frequency was jammed with traffic, Lieutenant A was unable to broadcast his observations.

Lieutenant A continued to watch the Subject as it appeared he was simultaneously talking on the cellphone and eating. The Subject then exited his vehicle and dropped the cellphone back into the front seat.

The Subject was facing toward his vehicle when, in one fluid motion, he turned to his left with a large, dark object in his hand that Lieutenant A quickly realized was not the same object he had been holding before. He observed the Subject point the object directly at the officers and civilians located nearby, and Lieutenant A believed it was a gun. To protect the lives of those officers and civilians, Lieutenant A fired three rounds from a right-handed barricade position from a distance of approximately 57 feet. After the Subject fell to the ground and appeared motionless, Lieutenant A yelled "cease fire" to the other officers and then maintained his position to provide cover for the arrest team.

After the Subject was handcuffed, Lieutenant A walked back to his vehicle, secured his shotgun and then walked down the off-ramp to Sergeant C's location. The investigation revealed that Lieutenant A fired three rounds from his shotgun in one volley of fire.

As soon as the Subject fell to the ground and appeared to be motionless, a number of officers yelled to cease fire. The Air Unit advised CD of shots fired and that the Subject was down.

Sergeant B assembled Officers P, Q and R as an arrest team and the officers approached the Subject. Officer Q was in the lead, armed with a shotgun.

The arrest team approached the Subject's vehicle. Officers Q and R attempted to clear the interior of the vehicle for additional subjects, but the rear window was "spider-webbed" due to bullet impacts, and it was difficult to look into the interior. Detective A and Officer P approached the Subject, who was lying face up next to the driver's door. Officer P holstered his weapon, removed his handcuffs and grabbed the Subject's right

hand as Detective A grabbed the Subject's left hand. Officer P then cuffed the Subject's right hand, followed by the left hand. Officer P then put on protective gloves and conducted a pat-down search of the Subject.

An unknown officer notified CD and requested a Rescue Ambulance (RA) for the Subject. Immediately after the Subject was handcuffed, Sergeant C ordered the officers to a corner to determine each officer's involvement. Sergeant C discussed with Sergeant B the need for involved officers to be identified, Public Safety Statements (PSS) to be administered, and for a perimeter to be established. Lieutenant B arrived on scene, and Sergeant C relinquished his role of Incident Commander. Sergeant C then directed and separated the involved officers in the OIS.

Uniformed Sergeant D arrived on scene and was advised by Sergeant C to monitor the involved officers. Sergeant B was directed to obtain Public Safety Statements from the involved officers.

The Los Angeles Fire Department (LAFD) arrived and administered emergency medical treatment, to which the Subject failed to respond.

### **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 weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

#### **A. Tactics**

The BOPC found Lieutenant A's, along with Sergeant A and Officer M's tactics to warrant Administrative Disapproval. The BOPC found Officers A, B, C, D, I, J, K and L's tactics to warrant a Tactical Debrief.

#### **B. Drawing/Exhibiting**

The BOPC found Lieutenant A's, along with Sergeant A's and Officers A, B, C, D, I, J, K, L and M's drawing and exhibiting to be in policy.

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

The BOPC found Lieutenant A's, along with Sergeant A's and Officers A, B, C, D, I, J, K, L and M's use of lethal force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:

##### **1. Command and Control**

In this instance, the BOPC was critical of the command and control provided at scene, specifically by Lieutenant A and Sergeant A. The importance of command and control at an incident of this magnitude cannot be overstated in that the level of command and control provided significantly influences the overall outcome.

#### **Lieutenant A**

The BOPC believed that the decisions made and actions taken by Lieutenant A were not consistent with effective command and control. Although the BOPC understood that sometimes supervisors must involve themselves directly in police action, in this case, Lieutenant A should have responded without delay to the initial shooting scene to provide investigative supervisory oversight. Instead, when he observed the other units monitoring the progress of the vehicle pursuit, he joined them, ultimately responding to the termination point.

The BOPC was critical of Lieutenant A for his decision to obtain a position on the embankment and deploy his shotgun. Although the BOPC appreciates the overall perspective this position afforded him, it did not afford him the ability to provide the critical leadership required to efficiently manage the chaotic scene and provide clear and concise direction to the on-scene personnel. The BOPC expects that supervisors take a leadership role when arriving on-scene rather than directly taking action. Although the Department authorizes supervisors to carry various weapon systems, discretion must be used in the decision as to when it is appropriate for supervisory personnel to self-deploy them versus facilitating their deployment through on-scene subordinate personnel. In this case, there were other officers at scene in possession of shotguns and a patrol rifle.

The BOPC found that Lieutenant A's tactics substantially deviated from approved Department tactical training, without sufficient justification.

## **Sergeant A**

The BOPC found that Sergeant A's actions substantially deviated from approved Department tactical training without justification. At the termination of the pursuit, Sergeant A exited his police vehicle, momentarily took cover to the rear of the vehicle before he moved to a vehicle that was just north of one of the other black and white police vehicles. There, he opened the front passenger door of the vehicle and directed the occupants to exit before he crouched down and took a position of cover behind the open door. As additional officers arrived, he directed an unknown officer to get a beanbag shotgun for a less-lethal option.

The BOPC was critical of the lack of command and control provided by Sergeant A. Sergeant A assumed the role of incident commander when he became involved in the vehicle pursuit, which brings with it the responsibility to effectively manage the incident to include providing clear and concise direction to subordinate personnel upon the termination. The video evidence established that there were two minutes between the termination of the vehicle pursuit and the Subject exiting his vehicle. Although it appears that Sergeant A provided some direction, it was determined to be insufficient considering the amount of available time to establish command and control and provide the critical leadership necessary to manage the incident. Absent exigent circumstances, the expectation is that supervisory personnel assert command and control through obtaining situational awareness and providing appropriate direction to subordinate personnel rather than assume an active role as a shooter.

The BOPC acknowledged that consideration must be given to the fact that this was a highly stressful and dynamic incident. However, in its overall assessment, the actions taken by Sergeant A were insufficient in the area of command and control and substantially deviated from approved Department tactical training, without justification.

## 2. Tactical Deployment/Plainclothes

The BOPC found that the decision by Officer M to assume a position that warranted his involvement as a shooter in the OIS was not consistent with the applicable plainclothes training. Officer M stated that he elected to continue past a vehicle that provided sufficient cover because it did not afford him the ability to shoot because there were officers in the foreground. Officer M believed that had he taken cover, he wouldn't have had any vantage point whatsoever.

In this case, there were sufficient personnel in positions to address any tactical eventuality as the incident unfolded. Absent exigent circumstances, plainclothes personnel should not become actively involved in a uniformed tactical operation because of the potential for misidentification and officer safety concerns. This is even more important when a ballistic vest has not been donned.

The BOPC determined that the decision to become involved in this uniformed tactical operation was not reasonable or consistent with Department guidelines.

The BOPC found that Officer M's tactics substantially deviated from approved Department tactical training, without justification.

- The BOPC additionally considered the following:

1. Shotgun manipulation:

The investigation revealed that Officer Q cleared the Subject's vehicle while armed with a shotgun. After clearing the Subject's vehicle, Officer Q stated he rendered the weapon safe. The safety should have remained on while Officer Q cleared the Subject's vehicle. Officer Q is reminded the shotgun safety remains engaged until the sights are aligned on the target and the officer intends to fire.

The investigation also revealed that during the incident Officer S deployed a shotgun, chambered a round and disengaged the safety. Officer S is reminded the shotgun safety remains engaged until the sights are aligned in the target and the officer intends to fire.

2. Vehicle Searches

During his interview, Officer R stated he utilized his left hand to break out the rear passenger window while attempting to clear the Subject's vehicle. As a result, Officer R sustained abrasions and a small laceration to his left wrist and hand. While the BOPC understands the need to clear the vehicle for additional subjects, absent unusual circumstances, the use of conventional search tactics should be utilized to avoid potential injuries to officers, as occurred in this incident.

3. Downloading Weapon

After the OIS, Sergeant G approached Officer L and advised him to render his Patrol Rifle safe. Officer L removed the magazine from the rifle and a round from the chamber and placed the rifle in Sergeant G's vehicle.

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

Each tactical incident merits a comprehensive debrief. Regarding Officers A, B, C, D, I, J, K and L, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the officers to review and discuss the incident and their individual actions during this incident.

Regarding Lieutenant A, Sergeant A and Officer M, the BOPC conducted an objective assessment of this incident and remained focused on ensuring an equitable outcome based on the role and responsibility of each supervisor/officer. The BOPC was critical of the tactics employed by Lieutenant A, Sergeant A and Officer M, and found that their actions substantially deviated from approved Department tactical training without justification, and warrant an Administrative Disapproval finding.

## **B. Drawing/Exhibiting**

- Upon initially observing the Subject, based on the information they had received and witness statements, Officers A and B exited their police vehicle and drew their service pistols.

The Subject fled and a vehicle pursuit ensued. At the termination of the pursuit, multiple officers exited their vehicles and prepared for a possible confrontation with a murder subject. As a result, the officers drew and/or exhibited their respective weapon systems.

Based on the totality of the circumstances, the BOPC determined that officers/supervisors with similar training and experience as the involved personnel, 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.

In conclusion, the BOPC found Lieutenant A's, Sergeant A's and Officers A, B, C, D, I, J, K, L and M's drawing and exhibiting of a firearm to be in policy.

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

The vehicle pursuit terminated when the Subject became involved in a traffic collision at the off-ramp of the freeway.

Numerous officers took positions of cover behind civilian and police vehicles and ordered the Subject to exit his vehicle. The Subject exited his vehicle, turned and pointed an object that several of the involved personnel believed to be a handgun toward officers, resulting in an OIS.

**Note:** The object the Subject was holding was a black oblong sunglass case. This item was recovered approximately two to three feet away from the Subject's right hand.

Scientific Investigation Division recovered a revolver from between the front passenger seat and the front passenger door jamb of the Subject's vehicle. The revolver contained five expended cartridge casings.

- **Officer A** (handgun, 11 rounds)

According to Officer A, the Subject exited his vehicle, quickly turned around with a black object, and pointed it right at him. He was in fear of his life. He was approximately 15-20 feet from the Subject. He was trying to protect his partner's life and his life. He was in fear of his life, knowing that the Subject had shot a victim and was pointing an object at Officer A, which at the time he believed the Subject had a handgun. Officer A shot the Subject approximately four to six times.

**Note:** Although Officer A recalled firing four to six rounds, the investigation revealed that Officer A fired a total of 11 rounds from his service pistol.

- **Officer B** (handgun, four rounds)

According to Officer B, the Subject exited the vehicle and quickly turned, and it looked as though he was holding a barrel of a handgun or some type of hand weapon. And when the Subject turned, that's when Officer B shot because he believed the Subject was going to shoot him and his partners. Officer B knew the Subject had just shot a victim.

- **Officer D** (handgun, 10 rounds)

According to Officer D, the Subject exited his vehicle, was fidgeting with something in his pocket and then turned around to his left in a very quick manner. After pulling something out of his pocket, he turned left and presented something that Officer D perceived to be a gun.

Officer D observed the Subject point the gun at the officers. Officer D then fired his service pistol, when the Subject was attempting to take a shooting stance and when he saw the dark object in the Subject's hand.

**Note:** Although Officer D believed he fired his service pistol six to eight times, the investigation revealed that he fired 10 rounds. Additionally, Officer D stated that he fired his shots while behind the silver vehicle as he was using it as cover. The evidence, including video and the trajectory of Officer D's rounds indicated that he initially fired over the vehicle as described, but ducked his head and continued to fire from over the silver vehicle as the incident progressed. Under the circumstances, the use of deadly force was justified; however, the BOPC was concerned with Officer D's ability to maintain a proper sight picture in order to ensure accuracy.

**Officer C** (handgun, 13 rounds)

Officer C observed the Subject holding a black object which he believed was a handgun. Fearing for his life, Officer C fired thirteen rounds at the Subject. According to Officer C, when the Subject spun, he brought his right hand up above the door and punched his hand forward, as though in a shooting stance.

When asked if Officer C observed the Subject holding something, Officer C replied that he had something black in his right hand, which he believed to be a gun.

- **Officer M** (handgun, 10 rounds)

According to Officer M, he exited his vehicle and as he was moving toward a position of cover, the Subject pointed what he believed to be a handgun toward the officers.

Officer M recalled that as he was getting into his position of cover, the Subject stood up, and with his back still facing him, he turned and pointed what appeared to be a gun towards officers who were positioned on the freeway off ramp.

- **Sergeant A** (handgun, 10 rounds)

According to Sergeant A, the Subject would not obey the officers' commands. When he slowly made his way out of the vehicle he turned away from the officers and reached down towards his waistband area. He appeared to be manipulating something. Seconds later he turned back around, holding a black oblong object in his hand, and he took his right hand and put it over the driver door as though in a shooting stance. At that point, Sergeant A believed the Subject was going to shoot and kill the officers just west of him. Sergeant A also thought that there was a possibility that the Subject would fire at the citizens stopped at the red light. So Sergeant A shot a first volley of rounds at the Subject. Sergeant A shot approximately four to six rounds in the Subject's direction, reassessed and could see that the Subject was still pointing the weapon, so he shot a second volley of approximately four to six rounds to stop the Subject's actions and to protect the officers and citizens from the imminent threat of death or serious bodily injury.

- **Officer K** (handgun, 16 rounds)

Officer K was pointing his service pistol at the Subject when the Subject exited the vehicle and appeared to be eating the contents of a plastic bag he was holding. Officer K then observed the Subject turn and reach into the vehicle, and he believed the Subject was reaching for a handgun. Officer K was unable to see the Subject's right hand, but observed him reach to the right side of his waistband when he heard an unknown officer yell, "Hands up, stop reaching, drop the gun." Officer K observed the Subject turn left toward him with his right

arm extended and holding a dark object, which Officer K believed to be a handgun. Officer K believed the Subject was going to shoot him in the head because he reached out towards Officer K.

In response, Officer K fired five to seven rounds from his service pistol at the Subject. Officer K stopped firing, quickly assessed, and fired a second sequence of five to seven rounds at the Subject before he observed the Subject fall down to the pavement.

**Note:** The investigation revealed that although Officer K believed he fired five to seven rounds during each sequence of fire, he in fact fired a total of 16 rounds.

- **Officer L** (rifle, 14 rounds)

Officer L observed the Subject exit his vehicle and stand at the driver's door holding a clear plastic bag in his left hand near his nose and mouth. Officer L recalled that the Subject's right hand was down to his side and he heard officers saying, "Drop the gun." And, "Watch his right hand."

The Subject turned toward the officers, pointing an object in their direction. Officer L formed the opinion the Subject was armed with a gun and was going to shoot at him. Officer L took a standing right-hand shooting position and fired six to eight rounds at the Subject. Officer L heard additional gunfire and believed the Subject was returning gunfire. Officer L felt debris hitting him on his left side. With respect to his initial shots, he felt that they were ineffective, so he continued to fire.

Officer L believed that the Subject's rounds were striking so close to him that he felt debris and then felt a weight hitting him on his shoulder, at which point, he thought the officer next to him on his left side had gone down. Officer L ducked for cover behind the silver vehicle.

- **Lieutenant A** (shotgun, three buckshot rounds)

According to Lieutenant A, he was in a position overlooking the incident. Lieutenant A observed the Subject exited his vehicle and recalled that he was holding a different object than he had been holding before; it was larger and dark. He turned and raised it directly at the officers who were approximately 20 feet away from him.

When asked why he fired his shotgun, Lieutenant A indicated that he believed the Subject was going to fire at the officers and civilians.

- **Officer I** (handgun, one round)

Officer I indicated that the Subject exited his vehicle and faced away from the officers and refused to follow orders to turn and face the officers with his hands up.

Officer I recalled that the Subject raised his hands, and Officer I saw a black object in his right hand. At that point, Officer I saw the Subject extend his right hand towards the officers in a shooting position. He feared for his life and the life of his fellow officers, so he fired a round.

- **Officer J** (handgun, one round)

According to Officer J, as the officers gave commands for the Subject to raise his hands, he turned clockwise away from them, placing his back towards the officers.

The Subject then reached with his hands twice into the interior of the vehicle as the officers continued to give him commands to place his hands in the air. The Subject then turned in a counter-clockwise direction and faced the officers. Officer I recalled that it looked as though the Subject was going to shoot someone. In fear for his safety, his partner's safety, and the public, Officer I fired one round in the center mass area.

Based on the totality of the circumstances, officers with similar training and experience as the involved personnel, while faced with similar circumstances, would reasonably believe that the Subject was armed with a handgun his actions of pointing the handgun toward officers posed an imminent threat of death or serious bodily injury. Therefore, the use of lethal force would be reasonable.

In conclusion, the BOPC found Lieutenant A, Sergeant A and Officers A, B, C, D, I, J, K, L, and M's use of lethal force to be in policy.