

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

**OFFICER-INVOLVED SHOOTING – 001-23**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Rampart	1/2/23		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	4 years, 4 months
Officer C	12 years, 6 months
Officer D	4 years, 3 months

**Reason for Police Contact**

Officers responded to a radio call for a restraining order violation. While at scene, the primary unit requested additional resources for a follow-up inside an apartment. Upon contacting the Subject, he became uncooperative and aggressive. Officers verbalized with the Subject and used less-lethal options in an attempt to take him into custody. The Subject armed himself with a knife and an Officer-Involved Shooting (OIS) occurred.

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Male, 45 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, including any Minority Opinions; 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 11/21/23.

## **Incident Summary**

On Monday, January 2, 2023, at 1344 hours, Witness A walked into the front lobby of Rampart Station. Witness A spoke with Officer G assigned to Rampart Patrol Division front desk. According to Witness A, she advised that her estranged partner (the Subject) had violated a restraining order she had against him.

Witness A indicated that Officer G provided him/her with a computer printout of the restraining order and the non-emergency phone number to Communications Division (CD). Officer G advised her to return back to her residence and contact the police.

According to Officer G, Witness A walked into the station and spoke to him/her regarding a restraining order violation against her "ex-partner" that had returned back to her residence. Officer G stated Witness A did not have a physical copy of the restraining order and he/she verified the restraining order was valid. According to Officer G, Witness A made no specific comments or indications about the Subject suffering from a mental illness.

Officer G indicated he/she instructed Witness A to return back to his/her neighborhood because he/she was aware there were no Rampart units available.

At 1524:09 hours, CD received an emergency call for service from Witness A. Witness A advised the Emergency Board Operator (EBO), Police Service Representative (PSR) A that she had a restraining order against her partner and she had returned back to her residence. Witness A identified her partner as the Subject. She advised that the Subject would fight the police and suffered from a mental illness; schizophrenia.

Officers A and B activated their BWV and responded Code Three to the location.

While en route, Officer B read the comments of the call to Officer A, who was driving their police vehicle. The officers also discussed tactics, redeployment and contact and cover roles.

According to Officer A's BWV, at 1534:01 hours, he/she broadcast that he/she and Officer B arrived at scene. Officer A parked on the southwest corner of the street. As they exited their vehicle, Witness A approached Officer A and handed over a paper to him/her. Witness A provided details of the restraining order and of the Subject's location.

According to Officer B's BWV, at 1536:26, he/she asked Witness A if the Subject had access to weapons. Witness A said that there was a kitchen knife in the kitchen. Additionally, Witness A informed the officers of a comment the Subject made to her. According to Witness A, the Subject told her he would fight the police and would not go back to jail.

As Officer A attempted to verify the status of the restraining order, Witness A advised both Officers A and B that the Subject had been to jail which she referred to as the "Crazy Place." Witness A told Officer A that the Subject suffered from schizophrenia. Officers A and B continued inquiring further about the restrictions of the restraining order.

At approximately 1543 hours, Officer A called Officer G and inquired further about the restraining order.

According to CD, at 1547 hours, Officer B requested an additional unit and supervisor. Officer B advised CD to have the units meet them on the corner. Officers A and B continued with their investigation as they waited for the arrival of the additional units.

Witness A stated the knife was in the kitchen and described it as a regular kitchen knife.

At approximately 1553 hours, Officers C, D, E and F arrived at the scene. Officer A informed them of the protective order on file, the knife in the kitchen and advised them the Subject told Witness A he would fight the police.

At approximately 1555 hours, Sergeant A arrived at the scene and was subsequently briefed by Officer D. Officer B briefed the officers of the layout of the apartment.

Utilizing the police vehicle's Mobile Data Computer (MDC), Officer A checked the Subject's criminal history. During the search, Officer A discovered the Subject had a full extradition warrant out of Colorado for failure to appear.

Officer A relayed the information to Sergeant A and the officers at the scene. Sergeant A designated roles and directed Officer A to have Witness A sign an Investigative Report (IR) titled Violation of a Restraining Order.

Once Witness A signed the IR, Officer A conducted a tactical briefing.

At approximately 1605 hours, the officers entered the apartment building and walked up to the second floor using the stairwell located on the eastside of the building. Once on the second floor, Officers C and D walked to the westside of the building and looked for a rear exit. Officers C and D confirmed there was no rear exit and walked up the westside stairwell to the third floor.

Officers C and D met with Officer A and informed him/her the fire escape did not connect to the apartment. Officers C and D positioned themselves on the west side of the door of the apartment. Officers A, B, E, F and Sergeant A positioned themselves on the east side of the door.

According to Officer A's BWV, at 1606:42 hours, he/she knocked on the door of the apartment. The Subject opened the apartment door and confirmed his identity to Officer A. Officer A asked the Subject if he/she could speak with him. The Subject immediately

took a step back into the apartment and stated he wanted his shoes and stuff. When Officer A asked the Subject if he/she could talk to him, the Subject bent at the knees, pulled up his shorts and raised his voice.

Officer A motioned with his/her left hand and asked the Subject several times to talk to him/her. The Subject continued to take steps back into the apartment and shouted several times.

Sergeant A was positioned behind Officer F as contact was made and orders were being given.

According to Officer A's BWV, at 1607:51 hours, he/she stepped into the apartment to allow Officer D who was standing behind him/her to enter the room. The Subject stepped further back into the room and immediately leaned forward and moved both hands from side to side. Officer A asked for a TASER. Officer D stepped into the room behind Officer A and shouted, "TASER, TASER, TASER!" Officers B and C followed Officer D into the apartment and stood behind him/her.

The Subject moved away from the officers and looked around the room. Officer A told the Subject to relax and not pick anything up. The Subject picked up a wooden chair, lifted it and held it in front of him. Officer A shouted, "Hey relax! Relax!" Officer A communicated with the team, "Forty, forty!"

Simultaneously, Officer D unholstered his/her TASER and shouted, "Forty, forty, forty, forty!"

According to Officer E's BWV, at 1608:04 hours, he/she was standing at the entrance of the apartment door when officers shouted, "Forty, forty!" Officer E saw the Subject pick up the chair and guided Officer F into the apartment.

Officer F stepped into the apartment and aimed the 40mm Less-Lethal Launcher (LLL) at the Subject. Officer F began issuing verbal commands and gave the Subject a warning.

According to Officer E's BWV, at 1608:44 hours, he/she instructed Officer F to deploy the 40mm LLL if the Subject raised the chair and attempted to hit officers.

Officer A continued giving orders to the Subject. Officer A told the Subject that they did not want to hurt him. According to Officer A's BWV, at 1609:16 hours, the Subject placed the wooden chair down.

Officers A and D continued their attempts to verbally de-escalate the situation for more than two minutes. During that time the Subject made an unintelligible statement and once again grabbed the wooden chair. Officer D warned the Subject to put the chair down and said that he/she did not want to TASE him.

According to Officer A's BWV, at 1611:28 hours, the Subject picked up a cup from the living room table and indicated he wanted to get water from the refrigerator. As the Subject walked back into the kitchen, he grabbed the wooden chair and began to pull it into the kitchen. Officer A stepped toward the Subject and shouted, "Come here, come here, come here, leave the chair, leave the chair!" Simultaneously, Officer A grabbed the front leg of the chair and pulled it away from him. The Subject continued into the kitchen, opened the refrigerator and grabbed a carton of water. As the Subject poured water into his cup, Officer A noticed a kitchen knife on the counter next to the sink and told Officer D to watch out behind him (the Subject).

Simultaneously, Officer E shouted for only one person to verbalize and Sergeant A reiterated. According to Sergeant A's BWV, at 1611:38 hours, he/she stepped into the apartment behind Officer E as the Subject walked into the kitchen.

According to Officer E's BWV, at 1611:40 hours, he/she communicated with Officer F. Officer F attempted to step into the kitchen next to Officer D.

Officer E communicated with Officer F, "Okay, you don't have enough space here. I'm going to have you back okay." Officer E grabbed the back of Officer F's belt and guided him/her back.

Officer E told Officer B that he/she needed to provide lethal cover since Officer D has his/her TASER out.

Simultaneously, Officer D holstered his/her TASER, transitioned to his/her pistol and held it at the low ready position. Officer D advised he/she unholstered his/her pistol because the Subject moved into the kitchen and was close enough to the knife where he could "grab it."

Officer E observed Officer D transition from his/her TASER to his/her pistol and told Officer B to switch to his/her TASER.

Officer A continued his attempts to verbally de-escalate the situation for more than five minutes as the Subject became visibly upset.

Officer A continued to speak with him and attempted to build a rapport by providing the Subject with his shoes.

According to Sergeant A's BWV, at 1615:20 hours, he/she directed Officers E and C to clear the remaining rooms inside the residence for any outstanding suspects. Officers C and E unholstered their pistols and cleared the remainder of the apartment.

According to Officer A's BWV, at 1617:02 hours, the Subject started putting on his shoes and it appeared to Officer A that he was complying. As the Subject slowly stepped toward the entrance of the kitchen, Officers A and D stepped back into the living room.

The Subject stopped at the entrance of the kitchen and communicated, "Go, I'm coming."

Officer A continued verbalizing with him and attempted to have the Subject step out of the residence.

According to Officer A's BWV, at 1620:46 hours, the Subject walked back into the kitchen and knocked over a purple bike creating a barrier between him and Officer D. Officer A followed the Subject back into the kitchen and maintained a visual on him from the entrance of the kitchen.

Officer D followed Officer A into the kitchen, unholstered his/her pistol and held it in a two-hand grip and pointed it at the Subject.

The Subject immediately picked up a knife from the kitchen countertop and set it back down directly in front of him. Officer A unholstered his/her TASER and shouted to the other officers, "Hey, knife! Knife! Knife!" Officer A began issuing verbal commands and warned the Subject that he would be TASED if he did not put the knife down.

Simultaneously, Sergeant A is standing on the other side of the kitchen wall behind Officer E. According to Sergeant A's BWV, at 1621:02 hours, he/she asked Officer C if the Subject had a knife, and Officer C stated that the Subject had a knife in front of him.

Officer C informed Sergeant A of the bicycle in the kitchen.

At this point of the incident, the officers had attempted to verbalize with the Subject for approximately 15 minutes. According to Sergeant A, he/she considered the Department's policy on a barricaded suspect. At 1622:00 hours, he/she communicated with Officer E, "I think we're probably going to shut it down and call for SWAT".

While holding the TASER with his/her right hand, Officer A stepped toward the Subject, grabbed the handlebar of the purple bicycle and attempted to move it out of the way.

As Officer A grabbed the handlebar, the Subject stepped on the rear tire of the bicycle with his left foot in an attempt to prevent Officer A from pulling it back.

Officer A pulled the bicycle back causing the Subject to briefly lose his balance and move his foot off the tire. The Subject immediately reached for the second bicycle against the wall, grabbed the handlebar with his right hand and lifted it up.

The following actions occurred over the course of approximately 33.27 seconds.

Officer A discharged his/her TASER and shouted, "TASER, TASER, TASER!" The Subject released the handlebar and grabbed the front tire. He lifted the front end of the bicycle and threw it at Officer A.

Sergeant A was standing in the living room behind Officers E and F as Officer A pulled the bicycle back.

According to Officer A's BWV, at 1622:14 hours, the Subject appeared to remove a TASER dart from his torso area with his left hand. Officer A shouted for a second TASER.

Officer D stepped out of the kitchen, holstered his/her pistol, transitioned to his/her Oleoresin Capsicum spray (OC) and held it with his/her left hand. Approximately ten seconds later, he/she unholstered his/her pistol and held it with his/her right hand in a low-ready position.

Simultaneously, Officer C unholstered his/her TASER, stepped into the kitchen, stood next to Officer A and shouted, "Second TASER!" According to Officer C's BWV, at 1622:15 hours, he/she discharged his/her TASER as the Subject turned toward him/her and grabbed the knife off the countertop with his right hand.

According to Officer C, the TASER had no effect on the Subject and he was not reacting to it. Approximately two seconds later, Officer C discharged his/her second TASER cartridge.

Simultaneously, Officer D aimed and deployed the OC spray at the Subject's eyes.

Officer C realized his/her two TASER deployments were ineffective. Officer C observed the Subject continue to remove the TASER darts and he/she reactivated his/her second TASER cartridge.

After being struck with the TASER probes, the Subject began falling forward toward the countertop, dropping the knife onto it. The Subject continued to fall, dropping to his knees. He attempted to re-arm himself with the knife, reaching for it with his right hand. The Subject was unable to grab the knife and subsequently caused it to fall to the floor between his legs as he fell onto his right side.

Simultaneously, Officer A transitioned the TASER to his/her left hand and unholstered his/her pistol. Officer A took a step back, placed his/her TASER on the table directly behind him/her and transitioned to a two-hand grip of his/her pistol.

Officer A observed the Subject fall back onto the floor with the knife dropping in front of him. Believing he/she had enough time to remove the knife away from the Subject, Officer A stepped toward the Subject during Officer C's TASER activation and shouted, "Keep it going!"

Sergeant A noticed Officer C had his/her TASER in one hand and his/her pistol in his/her other hand.

According to Officer A's BWV, at 1622:30 hours, the Subject pushed himself up onto his knees and picked up the knife. Officer A stepped back and shouted, "Drop it! Drop it! Drop it!" While the Subject was on his knees, he raised the knife above his head with the blade pointing forward. Officer A fired two rounds and Officer C fired five rounds at the Subject causing him to fall face down onto the floor.

According to Officer A, the Subject raised the knife above his head in a stabbing motion and prepared to lunge at him/her. In response, Officer A fired two rounds from his/her pistol as the Subject held the knife over his head with the blade pointed at him/her.

The investigation determined that Officer A fired his/her first round from an approximate distance of nine feet. According to Officer A, he/she fired his/her handgun to prevent Smith from stabbing and killing him/her and the other officers.

After firing his/her first round, Officer A observed the Subject still armed with the knife. The Subject's momentum was still moving toward him/her as he continued to raise himself up off the ground. In response, Officer A fired a second round.

Immediately after firing his/her second round, Officer A observed the Subject fall to the ground. As such, he/she stopped firing when he/she realized that the Subject had been stopped and no longer posed an immediate threat.

According to Officer C's BWV, at 1622:29 hours, he/she stepped forward behind Officer A. As the Subject pushed himself up onto his knees, Officer C stepped back, reactivated his/her TASER and shouted, "Get away! No! He still got a knife! No! Put it down! Put down!" According to Officer C, the Subject raised the knife above him and prepared to "explode" toward him/her. In response, Officer C fired five rounds from his/her pistol as the Subject held the knife with the blade pointed at him/her.

The investigation determined that Officer C fired his/her first round from an approximate distance of eight feet. According to Officer C, he/she fired his/her pistol to prevent the Subject from killing him/her and his/her partner.

After firing his/her first round, Officer C observed the Subject still armed with the knife and not stopping. In response, Officer C fired a second round.

After firing his/her second round, Officer C observed the Subject still armed and advancing toward him/her with his/her rounds having no effect. In response, Officer C fired a third round.

After firing his/her third round, Officer C continued to see the Subject still armed and advancing toward him/her. In response, Officer C fired a fourth round.

After firing his/her fourth round, Officer C assessed and continued to see the Subject was not stopping. In response, Officer C fired a fifth and final round.



Immediately after firing his/her fifth round, Officer C observed the Subject collapse while still holding the knife in his right hand. Approximately two seconds after Officer C fired his/her final round, he/she reactivated his/her TASER a third time. Officer C did not recall activating the TASER.

A Sound Graph Analysis of this incident determined that 33.271 seconds elapsed from when Officer A initially fired his/her TASER until the conclusion of the last TASER activation by Officer C. Additionally, the investigation determined that all of the pistol rounds were fired in 1.219 seconds.

At 1622:36 hours, Sergeant A broadcast a help call.

According to Sergeant A's BWV, at 1622:43 hours, he/she stepped out of the apartment and stopped Witness A from running into the apartment.

According to Officer A's BWV, at 1622:53 hours, he/she asked for help moving the bicycles. Officer E grabbed the front tire to one of the bicycles and asked Officer D for assistance.

Officers A and C continued holding their pistols at the low ready and provided cover while Officer D moved two bicycles out of the kitchen and into the living room. Simultaneously, Officer C said that the Subject still had the knife in his right hand.

According to Officer A's BWV, at 1624:06 hours, he/she stepped out of the kitchen and holstered his/her pistol followed by his/her TASER. Officer C stayed in the kitchen and continued providing cover.

Sergeant A asked Officer C, "Hey what do you see?" Officer C, "He just has a knife in his right hand. He's unconscious, not breathing. He's faced down." Sergeant A, "Is he shot?" Officer A responded, "He's shot."

According to CD, at 1624:26 hours, Officer B requested a Los Angeles City Fire Department (LAFD) Rescue Ambulance (RA) for the Subject.

According to Sergeant A's BWV, at 1624:38 hours, he/she communicated with Officers A and D, "Let's get him in cuffs. Glove up, glove up!" Officers A and D discussed their plan and approached the Subject while Officer C provided cover.

According to Officer A's BWV, at 1625:07 hours, he/she pulled the Subject's right arm out from underneath him and rolled him onto his back. Officer D removed the knife from the Subject's right hand and moved it back toward Officer C. Officer C directed them to start CPR and chest compressions.

Officer C observed Officer D remove the knife and asked him/her to pass it to him/her so that he/she could step on it.

Officer A assessed the Subject's injuries, checked for a pulse and initiated Cardiopulmonary Resuscitation (CPR) compressions.

Officer C administered a jaw thrust as Officer A provided instructions.

According to Officer H's BWV, at 1626:20 hours, he/she entered the apartment and walked toward Officer E who was standing at the entrance of the kitchen where officers were providing medical aid. Officer H advised him/her that he/she was an EMT. Officer H stepped into the kitchen, tapped Officer C on his/her shoulder and communicated he/she was an EMT. Officer C stepped back and Officer H knelt down next to the Subject.

Officer H assessed the Subject and initiated CPR. Simultaneously, Officer A stepped out of the kitchen and Officer B stepped in. Officer B administered a jaw thrust and assisted with chest compressions.

As they continued with medical aid, Officer H asked for a plastic bag and located one hanging on the refrigerator. Officer H used the plastic bag as a chest seal and placed it over a gunshot wound on the Subject's chest.

Officer H continued assessing the Subject's injuries and checked for a pulse. Officer H said the Subject had a slight pulse. Officer H continued with chest compressions. Officer E ensured that the scene was secured and medical aid continued.

At 1628:35 hours Sergeant B broadcast that he was the Incident Commander (IC). Upon his arrival, Sergeant B met with Sergeant A who was standing outside the apartment in the hallway.

Sergeant B stepped into the kitchen and directed Officers E and B to step out of the apartment while Officer H continued with medical aid.

At 1633:25 hours, LAFD Firefighter Paramedics arrived at the scene. At 1635 hours, the LAFD FF/PM declared the Subject deceased.

### **BWV and DICVS Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes
Officer C	No	Yes	Yes	N/A	N/A
Officer D	Yes	Yes	Yes	N/A	N/A
Officer E	Yes	Yes	Yes	N/A	N/A
Officer F	Yes	Yes	Yes	N/A	N/A
Sergeant A	Yes	Yes	Yes	N/A	N/A

## **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 Officer C, D, F, and Sergeant A's tactics to warrant a finding of Administrative Disapproval and Officer A, B, and E's tactics to warrant a Tactical Debrief.

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

The BOPC found Officers A, C, D and E's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officer A, C (TASER activations one through four) and D's less-lethal use of force to be in policy. The BOPC found Officer C's fifth TASER activation to be Out of Policy.

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

The BOPC found Officers A and C's lethal use of force to be Out of 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. The Los Angeles Police Department also recognizes 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. 23, 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 suspect 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.

**Verbal Warnings:** Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

**Proportionality:** Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

**Fair and Unbiased Policing:** Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender

expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

**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.

**Factors Used to Determine Objective Reasonableness:** Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

**Drawing or Exhibiting Firearms:** Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer’s alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary,

the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

**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.

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. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

**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*.

**Rendering Aid:** After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

**Warning Shots:** It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

**Shooting at or From Moving Vehicles:** It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

**Note:** It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

**Requirement to Report Potential Excessive Force:** An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

**Requirement to Intercede When Excessive Force is Observed:** An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

## **Definitions**

**Deadly Force:** Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

**Feasible:** Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Imminent:** Pursuant to California Penal Code 835a(e)(2), "[A] threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily

injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

**Necessary:** In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

**Objectively Reasonable:** The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “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 test of reasonableness is not capable of precise definition or mechanical application.” The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

**Serious Bodily Injury:** Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

**Totality of the Circumstances:** All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

**Vulnerable Population:** Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

**Warning Shots:** The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.



## A. Tactics

### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*  
(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

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

**Planning** – The day of this incident was the first time Officers A and B worked together. According to Officer A, they discussed tactics at the start of watch, including foot pursuit concepts, vehicle pursuits and contact and cover roles. During their response to the radio call, Officers A and B further discussed contact/cover roles, indicating that Officer A would be contact, and Officer B would be the designated cover officer (DCO). Prior to their approach to the apartment, Officer A assigned Officer E as arrest team, Officer F as the less-lethal officer with the 40mm LLL and Sergeant A to communications.

The BOPC noted that the UOFRB (Board) assessed the tactics as it pertained to the planning. The Board noted that although Officer A designated roles to each officer, there was no clear plan of action. The Board would have preferred that Sergeant A be more involved in the planning and would have preferred a more in-depth discussion on what the objectives were once the officers contacted the Subject.

The responding officers and Sergeant A were advised that the Subject stated he would fight the police and had access to a knife; however, they were not told that the Subject suffered from a mental illness. The investigation determined that Officers C, D and Sergeant A did not read the comments of the radio call prior to arriving. Officers E and F began to read the comments of the call but did not recall reading the portion of the comments related to the Subject's mental illness because they instead discussed tactics related to the Subject's comment that he would fight the police. The combination of these factors resulted in only Officers A and B knowing that the Subject suffered from a mental illness prior to the officers contacting him. It would have been preferred that the officers and Sergeant responding to the additional unit request had read the comments of the radio call in order to have all available information to enhance their situational awareness.

The UOFRB Majority assessed Officer B's tactics as the DCO. The Majority noted that he/she was assigned as the DCO during planning, and he/she acknowledged his/her role. The Majority further noted that at different times during the incident, Officer B allowed Officers C and D to pass in front of him/her thus placing himself/herself out of position to act as Officer A's DCO. As Officer A continued to speak with the Subject, Officer B was directed by Officer E to be lethal as he/she had yet to unholster his/her pistol. Before Officer B was able to do so, Officer D unholstered his/her pistol and assumed the role as the DCO. Officer B was then instructed to assume a less-lethal role with the TASER, which he/she then deployed; however, there were opportunities to do so earlier which he/she failed to recognize. The Majority opined Officer B's role as DCO was critical, yet he/she never unholstered, and his/her inability, or inaction, to remain in a position to provide his/her partner with cover was a substantial deviation from his/her assigned role.

The UOFRB Minority disagreed with the Majority's assessment of Officer B's tactics. The Minority noted Officer B's positioning upon entry and within the apartment throughout the incident. The Minority noted that the DCO should place themselves in a position to provide lethal cover, however, his/her ability to provide lethal cover was compromised by other officers being in front of him/her in a small, confined apartment. The Minority considered Officer B was a probationary officer at the time of the incident with limited experience. The Minority also noted that Officer B remained flexible in his/her tactics and recognized Officer D assumed the role of the DCO and he/she transitioned to assist with other duties. Therefore, the Minority opined that Officer B did not deviate from Department approved training.

**Assessment** – Upon entering the threshold of the apartment, Officer A observed the Subject take a fighting stance and requested a TASER. Throughout the incident, the Subject's behavior was erratic as he fluctuated from confrontational and aggressive to calm and his speech incoherent. Officer A continually assessed the Subject's behavior changes as he/she attempted to build a rapport and de-escalate the situation. When the Subject entered the kitchen, Officer A assessed the surroundings and observed a knife on the kitchen countertop behind the Subject and communicated his/her observations to the officers at scene.

**Time** – Officer A verbalized with the Subject for approximately 15 minutes prior to the use of force, in an attempt to de-escalate the intensity of the contact and gain voluntary compliance.

**Redeployment and/or Containment** – As the incident progressed, the Subject retreated into the kitchen and used bicycles to create a barrier between himself and officers. The BOPC considered that the UOFRB noted the size of the apartment was small and cluttered and offered little to no cover for officers. The Board would have preferred that officers used the available time to redeploy and better position themselves to reassess the situation. The Board noted Sergeant A made a comment about potentially redeploying and calling SWAT as the incident escalated. The Board

would have preferred that Sergeant A was in a better position to recognize the opportunity to redeploy sooner.

**Other Resources** – Prior to contacting the Subject, Officer B requested an additional unit and a supervisor respond to their location. Officer A used Department resources to verify the validity of the restraining order and to check if the Subject had any prior history of violence or weapons violations. The BOPC noted that the Board opined that Officers A and B had sufficient time to contact the Mental Evaluation Unit (MEU) prior to contacting him but did not do so. The BOPC would have preferred MEU have been contacted to gather information about the Subject's mental health history.

**Lines of Communication** – Officer A verbalized with the Subject for approximately 15 minutes as he/she attempted to gain voluntary compliance with him prior to the use of force. Upon seeing the knife on the kitchen counter behind the Subject, Officer A verbalized his/her observations to the officers near him/her and confirmed they were aware of the knife.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer B were not a deviation from Department-approved tactical training. Officer B was a probationary officer, who adjusted as the incident evolved and his/her actions, or inactions, did not amplify or cause an adverse effect on the outcome.

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

#### **Debriefing Point No. 1 Basic Firearms Safety Rules**

While the Subject had the wooden chair in his hands, Officer F can be seen on Officer D's BWV with his/her (Officer F's) finger on the trigger of the 40mm LLL while he/she is on target for approximately one minute and 36 seconds. After coming off target, Officer F's finger appeared to be in the trigger guard of the 40mm LLL.

After having picked up the knife from the kitchen countertop and while Officer A continued to give commands to the Subject, Officer D acted as the DCO. During this time, Officer D had his/her service pistol pointed at the Subject with his/her finger on the trigger for approximately one minute and 14 seconds.

After the Subject was tased the first time by Officer A, Officer D holstered his/her service pistol and removed his/her OC spray and held it in his/her left hand. Approximately 10 seconds later, Officer D unholstered his/her service pistol again with his/her right hand as he/she deployed his/her OC spray with his/her left hand. According to Officer B's BWV, Officer D's finger can be seen on the trigger of his/her service pistol for an undetermined amount of time.

During Officer C's second TASER discharge, he/she transitioned his/her TASER into his/her left hand and unholstered his/her service pistol with his/her right hand. At the time of the OIS, Officer C was holding the TASER in his/her left hand as he/she fired his/her service pistol while holding it in his/her right hand. Force Investigation Division's

investigation determined Officer C fired all five rounds from his/her service pistol during his/her second TASER reactivation (fourth application).

The BOPC noted that the UOFRB assessed Officer F's tactics as it pertains to placing his/her finger on the trigger of the 40mm LLL for approximately one minute and 36 seconds. The Board noted that this was a violation of the firearms safety rules as he/she did not fire the 40mm LLL. The Board opined Officer F's finger was on the trigger for too long without firing the 40mm LLL.

The Board assessed Officer D's tactics as it pertains to placing his/her finger on the trigger of his/her service pistol twice during the incident. During the first instance, Officer D had his/her finger on the trigger for approximately over one minute, while he/she was on target. During the second instance, he/she had his/her finger on the trigger for an undetermined amount of time. The Board opined that both occurrences of Officer D's finger on the trigger of his/her service pistol were a clear violation of the firearms basic safety rules.

The Board assessed Officer C's tactics at the time of the OIS. The Board noted that Officer C discharged all five rounds from his/her service pistol while his/her TASER was in its five second cycle. The Board would have preferred that Officer C handled one weapon system at a time rather than simultaneously holding his/her service pistol with one hand and TASER with the other hand. The Board opined that since Officer C was handling two weapon systems at the same time during a stressful incident, it led to the use of both the TASER and service pistol simultaneously. The Board determined that this was a deviation from safe firearm handling practices and it could have led to an unintentional discharge of the wrong weapon system.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers C, D and F were a substantial deviation without justification from Department-approved tactical training.

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

### **Additional Tactical Debrief Topics**

- **Effective Encounters with Mentally Ill Persons** – The investigation revealed that officers responded to a radio call of a domestic violence restraining order violation in which Witness A stated the Subject suffered from schizophrenia. Officers A and B did not consider contacting MEU prior to contacting the Subject, nor did they relay the mental illness diagnosis to the responding officers and Sergeant. According to Officers C, D, E, F and Sergeant A, they were not aware of the mental illness comments because they did not attempt to read, or finish reading, the comments of the call prior to arriving.

- **Tactical Approach** – Upon contacting the Subject at the apartment door, Officers C and D were standing on the opposite side of the door as Officers A, B, E, F and Sergeant A, leaving the potential for crossfire if the situation escalated to an OIS at that moment.
- **Simultaneous Non-Conflicting Commands** – Throughout the incident and leading up to the OIS, multiple officers are heard giving simultaneous non-conflicting commands to the Subject.
- **Holding Service Pistol in One Hand and OC Spray in the Other Hand** – When Officer D removed and used his/her OC spray with his/her left hand, he/she had also unholstered his/her service pistol and held it in his/her right hand. It would have been preferable for Officer D to deploy one force option at a time so as not to be at a tactical disadvantage or increase the risk for an unintentional discharge.
- **TASER - Best Practices** – According to Officer F's BWV, at 1608:08 hours, Officer D had his finger on the trigger of his/her TASER without deploying it for approximately three minutes and twenty-two seconds as Officer A communicated with the Subject. Approximately two seconds after discharging the first TASER cartridge, Officer C discharged the second cartridge rather than waiting for the first activation to complete its five second cycle. According to Officer C, his/her assessment of his/her first TASER activation revealed that it did not have the desired effect. This caused Officer C to discharge the second cartridge. The BOPC found Officer C's second TASER application to be reasonable. Officer C did not need to complete a five second cycle after assessing and determining the initial TASER application was ineffective.
- **Retention of Equipment** – After discharging his/her TASER, Officer A placed the TASER down on the table behind him/her as he/she unholstered his/her service pistol, rather than securing the TASER in his/her holster.
- **Incident Commander Declaration** – Sergeant A did not identify himself/herself as the Incident Commander prior to or after the OIS.

### **Command and Control**

As a result of an additional unit and supervisor request, Sergeant A responded to the scene and met with officers. Upon being briefed by Officer D, Sergeant A allowed Officer A, who was the senior officer of the primary unit, to develop the tactical plan and delegate roles. Officer A assigned contact/cover roles, arrest team, less-lethal and designated Sergeant A as the communications officer. Upon contacting the Subject, Sergeant A provided supervisory oversight. Confident in Officer A's tactical plan and de-escalation efforts, Sergeant A allowed him/her to continue to verbalize without intervention.

During the incident, Officer E provided direction and guidance to the officers at scene. Recognizing multiple officers were providing simultaneous non-conflicting commands, Officer E directed one officer to verbalize. After the Subject retreated into the kitchen, Officer E directed Officer F to approach with Officers D and A to provide a less-lethal option with the 40mm LLL. Shortly thereafter, Officer E recognized that space was limited for the 40mm LLL and redeployed Officer F back away from the kitchen. Officer E directed Officer B as lethal cover since Officer D had his/her taser out. However, Officer E immediately recognized Officer D was transitioning to lethal cover and, prior to Officer B drawing his/her service pistol, redirected him/her to unholster his/her taser as a less-lethal option. After the OIS, Officer E directed Officer F to sling the 40mm LLL and to watch the apartment door to maintain crime scene integrity.

Following the OIS, Sergeant A identified the officers involved and directed them into the hallway and away from responding officers. Upon arriving at scene, Sergeant B identified all the involved employees, including Sergeant A, and directed them to turn off their BWV and collected the BWV cameras. Sergeant B located Officers E and B, who were in the apartment assisting with rendering aid to the Subject. Sergeant B directed them not to discuss the incident and subsequently replaced them with responding officers so that they could be separated and monitored.

Sergeant B directed all the involved employees outside where he was met by Sergeant C. Sergeant C monitored all the involved employees while Sergeant B obtained independent Public Safety Statements (PSS) from Officers C and A.

The BOPC noted that the UOFRB assessed Sergeant A's actions as it pertains to his supervisory oversight and command and control. The Board noted that as the incident unfolded, Sergeant A was not in a position to provide effective command and control and would have preferred he/she stepped forward and place himself in a better position to assess the situation. The Board noted that Sergeant A did consider redeploying and contacting Metropolitan Division; however, he/she did not effectively communicate this consideration to the officers and did not act on it. The Board opined that had Sergeant A been in a better position, he/she would have had the ability to better assess the incident and he could have gained the necessary insight to direct the officers to take advantage of opportunities to take the Subject into custody or to redeploy. The Board opined Sergeant A's lack of effective leadership and lack of command and control contributed to the outcome of this incident.

Based on the totality of the circumstances, the BOPC determined that the overall actions of Sergeant A were a substantial deviation without justification from Department training and its expectations of a supervisor during a critical incident.

### **Tactical Debrief**

- The BOPC determined that Officers C, D, F and Sergeant A's actions were a substantial deviation, without justification, from Department-approved tactical training. The BOPC also determined that Officers A and E's actions were not a

deviation from Department-approved tactical training. The BOPC determined that Officer B's actions were not a deviation from Department-approved tactical training.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident.

## **B. Drawing and Exhibiting**

### **Officer A**

- After being struck with the TASER probes, the Subject began falling forward toward the countertop, dropping the knife onto it. The Subject continued to fall, dropping to his knees. He attempted to re-arm himself with the knife, reaching for it with his right hand. The Subject was unable to grab the knife and subsequently caused it to fall to the floor between his legs as he fell onto his right side. Simultaneously, Officer A transitioned the TASER to his/her left hand and unholstered his/her pistol. Officer A took a step back, placed his/her TASER on the table directly behind him/her and transitioned to a two-hand grip of his/her pistol.

### **Officer C (1<sup>st</sup> occurrence)**

- Recognizing there were additional rooms in the apartment that were not searched, Officer C unholstered his/her service pistol to clear the unsearched rooms believing there may be someone armed inside the apartment.

### **Officer C (2<sup>nd</sup> occurrence)**

- According to Officer C, he/she heard an officer identify a knife. In response, Officer C unholstered his/her service pistol because he/she believed the situation could escalate to the use of deadly force.

### **Officer C (3<sup>rd</sup> occurrence)**

- After having deployed the second cartridge of his/her taser, Officer C unholstered his/her service pistol a third time because the Subject had already reached for the knife and did not react to the taser deployments. Officer C believed the Subject was under the influence of a narcotic and was going to try and kill the officers as he/she observed the Subject grabbing the knife and raising it up.

#### **Officer D (1<sup>st</sup> occurrence)**

- According to Officer D, he/she observed the Subject going toward the kitchen and having the knowledge that Witness A advised the officers there are knives in the kitchen, he/she unholstered his/her service pistol.

#### **Officer D (2<sup>nd</sup> occurrence)**

- According to Officer D, he/she observed the Subject in the kitchen area and he/she believed he/she observed the Subject briefly grab the knife that was on the kitchen counter. Officer D believed that the Subject was close enough to officers that if he were to grab the knife, he could charge at the officers and cause serious bodily injury or death. In response, Officer D unholstered his/her service pistol.

#### **Officer D (3<sup>rd</sup> occurrence)**

- Officer D stepped out of the kitchen, holstered his/her pistol and transitioned to his/her OC spray, holding it in his/her left hand. Approximately ten seconds later, he/she unholstered his/her pistol and held it with his/her right hand in a low-ready position.

#### **Officer D (4<sup>th</sup> occurrence)**

- After having sprayed the Subject with the OC spray, Officer D believed the Subject was still armed with a knife. According to Officer D, he/she believed Officer A stated the Subject was still armed with the knife.

#### **Officer E**

- According to Sergeant A's BWV, at 1615:20 hours, he/she directed Officers E and C to clear the remaining rooms inside the residence for any outstanding suspects. Officers C and E unholstered their pistols and cleared the remainder of the apartment.

The BOPC noted that the UOFRB assessed Officer C's first drawing and exhibiting and Officer E's drawing and exhibiting. The board noted Officers E and C were directed by Sergeant A to search the uncleared rooms in the apartment for any potential threats. The Board opined that although Witness A advised officers that there was no one else in the apartment, a scene is not safe until it is searched and cleared by officers.

The UOFRB assessed Officer A, C and D's subsequent drawing and exhibiting. The Board noted that the officers unholstered their service pistols when the Subject armed himself with a knife, which created a reasonable belief that the incident could escalate to the point where it would be necessary to use deadly force. The Board further considered the additional instances of Officers C and D unholstering their service pistols. The officers did so because the Subject had previously armed himself with the



knife and continued to re-arm himself with the knife in spite of the deployment of multiple less-lethal options. The Board opined that the Subject's actions posed a risk that could escalate to the use of deadly force.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A, C, D and E 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 Officers A, C, D and E's Drawing/Exhibiting, all occurrences, to be In-Policy, No Further Action.

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

#### **Officer A (TASER)**

- Officer A pulled the bicycle back causing the Subject to briefly lose his balance and move his foot off the tire. The Subject immediately reached for the second bicycle against the wall, grabbed the handlebar with his right hand and lifted it up. Believing the Subject was going to throw the bicycle at him/her, Officer A deployed the TASER at the Subject.

#### **Officer C (TASER 1<sup>st</sup> occurrence)**

- According to Officer C's BWV, at 1622:15 hours, he/she discharged his/her TASER as the Subject turned toward him/her and grabbed the knife off the countertop with his right hand.

#### **Officer C (TASER 2<sup>nd</sup> occurrence)**

- According to Officer C, the TASER had no effect on the Subject, and he was not reacting to it. Approximately two seconds later, Officer C discharged his/her second TASER cartridge.

#### **Officer C (TASER 3<sup>rd</sup> occurrence)**

- According to Officer C, the first two TASER deployments did not have the desired effect of incapacitating the Subject. The Subject continued his actions of grabbing the knife and Officer C believed Smith was going toward him/her with the knife.

#### **Officer C (TASER 4<sup>th</sup> and 5<sup>th</sup> occurrence)**

- Officer C recalled only activating the TASER a total of three times and does not have an independent recollection of the second and third re-activations.

Immediately after firing his/her fifth pistol round, Officer C observed the Subject collapse while still holding the knife in his right hand. Approximately two seconds

after Officer C fired his/her final round, he/she reactivated his/her TASER a third time.

#### **Officer D (OC)**

- Officer D observed the Subject being tased and the TASER having no effect. Officer D observed the Subject armed with a knife and moving toward the officers. In response, Officer D deployed the OC spray at the Subject. According to Officer D, he/she deployed the OC spray for approximately three to five seconds. Officer D indicated he/she knew the effect the OC deployment would cause in the kitchen area but wanted to use it as a de-escalation method to gain control of the Subject.

The BOPC noted that the UOFRB assessed Officer A's application of the TASER during the incident. The Board noted that Officer A discharged the TASER when the Subject picked up the bicycle. The Board noted that the Subject posed an immediate threat with the bicycle when he picked it up and it could be used as a weapon.

The Board assessed Officer C's five applications of the TASER. The Board noted Officer C discharged two bays from the TASER and reactivated the darts three times, resulting in five total applications. The Board noted that the Subject posed an immediate threat during Officer C's first four applications of the TASER. The Board considered at the time of those applications, the Subject was either attempting to arm himself with the knife or was armed with the knife. However, the Board was critical of Officer C's fifth TASER application. The Board noted the fifth application occurred after the OIS when the Subject was already on the ground. The Board also noted that Officer C stated he/she did not remember that he/she activated the TASER again the fifth time. The Board opined that the Subject did not pose an immediate threat to the officers during the fifth TASER application as the OIS had already occurred and the Subject was on the ground.

The Board assessed Officer D's decision to deploy the OC spray during the incident. The Board considered Officer D stating he/she noticed the TASER applications were not effective and wanted to use another less-lethal option guided by the Reverence for Human Life principle. The Board opined that although it was not ideal to deploy the OC spray in a confined space, it did adhere to the policy in that the Subject posed an immediate threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and C (TASER applications one through four), in the same situation, would reasonably believe that the use of less-lethal force was objectively reasonable. The BOPC also determined that an officer with similar training and experience as Officer C, in the same situation, would not reasonably believe that the use of less-lethal force (fifth TASER application) was objectively reasonable.

Therefore, the BOPC found Officers A, D and C's (TASER applications one through four) Less-Lethal use of force to be In Policy, No Further Action. The BOPC found Officer C's fifth application of less-lethal force to be Administrative Disapproval, Out of Policy.

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

**Officer A** - pistol, two rounds from an approximate distance of nine feet in a southeasterly direction.

**Background** – Force Investigation Division investigators analyzed the scene, physical evidence and video footage to assess Officers A and C's background at the point they discharged their service pistols. The investigation determined their background consisted of an empty kitchen, countertops and cabinets.

According to Officer A's BWV, at 1622:30 hours, the Subject pushed himself up onto his knees and picked up the knife. Officer A stepped back and shouted, "Drop it! Drop it! Drop it!" While the Subject was on his knees, he raised the knife above his head with the blade pointing forward. Officer A fired two rounds and Officer C fired five rounds at the Subject causing him to fall face down onto the floor.

#### **Round One**

The investigation determined Officer A fired his/her first round from an approximate distance of nine feet. According to Officer A, he/she fired his/her handgun to prevent the Subject from stabbing and killing him/her and the other officers.

#### **Round Two**

After firing his/her first round, Officer A observed the Subject still armed with the knife. The Subject's momentum was still moving toward him/her as he continued to raise himself up off the ground. In response, Officer A fired a second round.

**Officer C** - pistol, five rounds from an approximate distance of eight feet in a southeasterly direction.

**Background** – Force Investigation Division investigators analyzed the scene, physical evidence and video footage to assess Officers A and C's background at the point they discharged their service pistols. The investigation determined their background consisted of an empty kitchen, countertops and cabinets.

According to Officer C, he/she observed the Subject arm himself with a knife from the kitchen. Officer C observed the Subject raise the knife above him and motion his body toward the officers' direction. Believing the Subject was attempting to attack the officers with a knife, Officer C discharged five rounds from his/her service pistol at the Subject to protect himself/herself from the threat of serious bodily injury or death.

## **Round One**

The investigation determined Officer C fired his/her first round from an approximate distance of eight feet. According to Officer C, he/she fired his/her pistol to prevent the Subject from killing him/her and his/her partner.

## **Round Two**

After firing his first round, Officer C observed the Subject still armed with the knife and not stopping. In response, Officer C fired a second round.

## **Round Three**

After firing his/her second round, Officer C observed the Subject still armed and advancing toward him/her with his/her rounds having no effect. In response, Officer C fired a third round.

## **Round Four**

After firing his/her third round, Officer C observed the Subject still armed and advancing toward him/her. In response, Officer C fired a fourth round.

## **Round Five**

After firing his/her fourth round, Officer C assessed and observed the Subject was not stopping. In response, Officer C fired a fifth and final round.

The BOPC considered that the UOFRB Majority assessed Officers A and C's decisions to use deadly force in this incident. The Majority considered that the Subject was armed with a knife and held it above his head; however, they noted there were bicycles in between him and the officers and the Subject was on his knees. The Majority noted that if a barrier between the officers and the Subject would cause a delay of officers reaching the suspect, it too would cause a delay in the Subject's ability to reach the officers. Furthermore, the Majority noted that the Subject was on his knees and not within arm's reach of the officers and would have to get up and traverse obstacles to reach them. The Majority opined the officers had time to redeploy or use additional less-lethal options and it was not an imminent defense of life situation.

The BOPC also considered that the UOFRB Minority assessed Officers A and C's use of deadly force. The Minority recognized that officers used multiple less lethal options against the Subject, who was posing a threat of violence toward the officers and those less lethal options did not garner the desired effect. The Minority noted the Subject was armed with a knife and held it over his head as he attempted to stand up and attack the officers, even after the deployment of multiple TASERS and OC spray. The Minority noted the Majority's consideration and agreed that the bicycles did create a barrier between the Subject and the officers; however, the Minority opined that those bicycles

were not a major obstacle, and the Subject could have easily picked them up or stepped over them. The Minority also noted the bicycles did not create a barricade and that the Subject still posed a threat to the officers, as they were in a small kitchen that placed the officers and the Subject in close proximity to each other. Therefore, the Minority opined that the use of deadly force by Officers A and C adhered to the Department's lethal force policy and determined the Subject posed an imminent threat of serious bodily injury or death.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and C, in the same situation, would not reasonably believe that the use of lethal force was objectively reasonable, proportional, and necessary.

Therefore, the BOPC found Officers A and C's use of Lethal Use of Force, all rounds, to be Out of Policy, Administrative Disapproval.