

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

OFFICER-INVOLVED SHOOTING – 007-24

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No()</u>
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Central	2/20/24		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	28 years 8 months
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Reason for Police Contact

Officers responded to a radio call of an Assault with a Deadly Weapon (ADW). Upon arrival, the Person Reporting (PR) informed the responding officers that the Subject had pointed a gun at her. During the brief interaction, the Subject emerged from the doorway of his apartment and fired a pepper ball gun at the officers and PR, resulting in an Officer-Involved Shooting (OIS).

The Subject retreated into his apartment uninjured and barricaded himself. Telephonic contact was made with the Subject and he surrendered without further incident.

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Male, 42 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC. The following incident was adjudicated by the BOPC on January 7, 2025.

Incident Summary

On Tuesday, February 20, 2024, at approximately 2035 hours, a Communications Division (CD) Emergency Board Operator (EBO) received a 911 call from Victim A, who resided at single-room occupancy (SRO) hotel. Victim A, in a state of fear, reported that her neighbor, later identified as the Subject, residing in Apartment No. 201, had threatened her with a gun after being asked to lower his music.

At approximately 2037 hours, CD broadcast, "*Any Central unit, ADW suspect [...]. Suspect male White, 50 years, bald head, 6 feet, thin build, black sweatshirt, correction, threatened PR with a gun, Code-Two, Incident 3640, RD 0147.*" Comments of the call from the incident recall read as follows: "NO ENTRY CODE. PR IN APT 202. SUSP IN APT 201. SUSP/NEIGHBOR M/W 50YRS, BALD HEAD, 6F, THIN BUILD, BLK SWEATSHIRT. THREATENED PR WITH A GUN."

Central Patrol Division Uniformed Police Officers A and B, advised CD to assign the call to them. This was the first day that Officers A and B had been assigned as partners.

According to Officer B, he/she incorrectly believed that the comments of the call indicated the Subject was in apartment 202 and Victim A was in apartment 201.

According to Officer A, he/she could not read the comments on the call because the MDC did not send the information due to a poor reception in the area.

According to Officer A, as they responded, he/she told Officer B to park in front of the location. Officer A justified this decision by his/her familiarity with the area, having been to the venue on over one hundred occasions, and because of his/her knowledge that the front door of the hotel lobby was usually locked. In addition, the call comments indicated the incident was on the second floor.

Officers A and B showed themselves at the scene via their MDC and parked directly in front of the venue. The officers exited their police vehicle and approached the front door of the hotel lobby. Officer A attempted to open the lobby door, but it was secured

As they stood outside the front hotel lobby door, they observed an unidentified male who was intoxicated approaching the lobby door with keys in his hands. Officer A requested that he open the lobby door for them. The male asked Officer A to open the door for him, at which time he/she obtained the keys from the male and opened the front lobby door.

Officer B's BWV captured, Officer A give the male his keys. Officer A then walked toward the elevator and pushed the elevator up button.

Officer A entered the elevator, followed by Officer B, and pushed the second-floor button. According to the officers, they discussed tactics while in the elevator. They determined that Officer B would be the contact officer and Officer A would be the cover officer. Officer A also informed Officer B that if the PR mentioned that she had

observed a gun, they would request an additional unit and a supervisor and then formulate a plan.

Upon arriving on the second floor of the apartment complex, the elevator door opened, and the officers exited the elevator. They noticed that the door to Apartment No. 201 was to their left, and the door to Apartment No. 202 was to their right, just outside the elevator exit. According to Officer A, he/she could hear noises coming from Apartment No. 201. A surveillance camera in the second-floor hallway of the hotel captured the officers pointing toward Apartment No. 201, pausing briefly, and taking cover along the east brick wall in the hallway of the second floor.

According to Officer A in his/her 1st interview, upon exiting the elevator both officers took cover in the hallway. Having taken cover he/she stated that he/she told Officer B to make contact with the PR in room 202.

According to Officer A, in his/her 3rd interview he/she went to the second floor not knowing which rooms the suspect and PR were in. Once behind cover in the hallway he/she told Officer B to request further information from CD to establish who was in which room. Officer A stated that Officer B did not have time to wait for a response from CD and approached Apartment No. 201. According to Officer A he/she did not know why Officer B approached the door to Apartment No. 201 but he/she did not apparently like it. BWV and hallway surveillance shows that Officer B never made any request for further information and that Officer A was in concurrence with Officer B's actions as he/she approached Apartment No. 201.

As Officer B approached the door to Apartment No. 201, the door to Apartment No. 202 slightly opened, and the officers observed Victim A, the PR, behind the door. Officer A told Officer B to return to the hallway and take cover in the hallway. Officer A's BWV captured Officer A pointing toward Apartment No. 201, Officer A motioning for Victim A to exit the apartment, and Victim A closing the door.

According to Officer B, as he/she maintained a visual of the front door to Apartment No. 201, he/she heard Officer A tell Victim A to exit the apartment to speak with them. Approximately seven seconds after Victim A closed the door, she re-opened the door to Apartment No. 202. Officer B's BWV captured the door halfway open as Victim A stood inside her apartment at the doorway, her attention directed toward Apartment No. 201.

Officer B's BWV captured Officer A unholstering his/her pistol with his/her right hand while placing his/her right index finger along the frame. Officer A held his/her pistol along the right side of his/her person with the barrel pointed toward the ground. Officer A then leaned forward while directing his/her attention toward Apartment No. 201. Officer A then motioned with his/her left hand for Victim A to exit her apartment. According to Officer A, Victim A stated, that the Subject had pointed a gun at her. According to Officer B, he/she heard Victim A say she did not want to exit her apartment because she was scared, as he/she maintained a visual of the door to Apartment No. 201.

Suddenly, the door to Apartment No. 201 opened. The hallway surveillance footage captured the Subject standing inside his apartment, opening the door with his left hand, raising what appeared to be a pistol in his right hand, and discharging the weapon in the direction of the officers and Victim A.

Officer A raised his/her pistol in a two-hand shooting position and fired three consecutive rounds in an easterly direction toward the Subject from an approximate distance of 12 feet. The Subject remained in his apartment and closed the front door.

Immediately after the OIS, Officer B unholstered his/her service pistol, held his/her gun in a one-hand low-ready position, and placed his/her right index finger along the frame.

Officer B broadcast, "*Officer needs help, officer needs help, apartment 201.*" According to Officer A, he/she heard Officer B's broadcast but didn't hear the transmission over the radio. Officer A then retrieved his/her hand-held radio with his/her left hand while holding his/her pistol with his/her right hand.

Officers A and B activated their BWV immediately after the OIS.

Officer A broadcast, a request for additional units and an air unit.

BWV and hallway surveillance footage captures Officer A's finger on the trigger after the OIS for approximately 90 seconds. According to Officer A his/her finger was not placed on the trigger after the OIS.

In response to the officer needs help broadcast, Central Patrol Division, Central Traffic Division (CTD), and Transit Services Division (TSD) uniformed personnel responded.

Officers D and E arrived at the scene, followed by Officers F, G, H, I, J, K, L, M, N, and O and Sergeant A. Officer D approached the front door of the hotel lobby and attempted to open the door, but it was locked. After several attempts to force the door open, a resident opened the lobby door, allowing the officers access to the hotel.

Officer B broadcast, a description of the Subject and alerted responding officers that the Subject's window looked out onto the street and for responding officers to take the stairs not the elevator.

Officer A broadcast a request for responding units to bring breaching tools and a shield. Sergeant C broadcast that he/she was equipped with breaching tools.

Officers P and Q arrived at the scene, followed by Officers R, S, T, U, V, W and Sergeants B and C.

Sergeant B advised Sergeants A and C that he/she would establish a Command Post (CP). Sergeant D arrived and positioned himself/herself outside the building. Lieutenant A broadcast that he/she was Code-Six, responded to the second floor, and joined the officers.

Sergeant A advised officers to obtain and don their helmets. At that time, Officers H, I, K, O, R, V, and W responded to their police vehicles and obtained their helmets. Simultaneously, Officer O retrieved the Beanbag Shotgun from his/her police vehicle.

Sergeant C approached Officer N, at which time Officer N advised the sergeant of a camera installed in the east/west hallway, just outside of Apartment No. 201. Officer N suggested they remove the camera to gain a tactical advantage, and Sergeant C agreed.

Sergeant C formulated a rescue/arrest team consisting of Officers T, Designated Contact Officer (DCO), Officer U, communications/shield officer, Officer K, less-lethal equipped with a TASER, followed by Officer J.

Officers O, R, V, and W, equipped with their helmets, returned to the scene, at which time Officer O handed Officer N the Beanbag Shotgun. Lieutenant A then directed a Beanbag Shotgun to the front of the stick to disable the surveillance camera just above the Subject's front door.

Officer N discharged a Super-Sock round, striking and disabling the camera. Officer N re-deployed and joined the rescue/arrest team as an additional less-lethal officer equipped with a Beanbag Shotgun. Lieutenant A then advised Sergeant C that the team's next mission was to extract Victim A from Apartment No. 202.

Sergeant A removed Officers A and B from the scene and escorted them to the CP.

Witness A, a friend of the Subject, arrived at the venue and spoke with Sergeant D. Witness A phoned the Subject and handed his cell phone to Sergeant D who began to speak with the Subject.

After a short while Sergeant D was able to convince Subject A to give himself up and exit the apartment where he was taken into custody without further incident. Upon exiting the apartment, the Subject informed officers that there was also a female in the apartment and a Pit Bull dog that were also removed from the apartment without incident.

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	No	Yes	Yes	N/a	N/a
Officer B	No	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 Officers A and B's tactics to warrant a finding of a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer A's Lethal Use of Force to be In Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. 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 RA for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, 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

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication**

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

Planning/Assessment – This was the first day Officers A (passenger) and B (driver) had been assigned as partners. According to the officers, they discussed contact and cover responsibilities before starting their patrol shift.

Officer A told Officer B to park in front of the location due to his/her familiarity with the location and knowledge the front door of the hotel lobby was usually locked.

According to Officers A and B, they discussed tactics while in the elevator and determined Officer B would be the contact officer while Officer A would be the cover officer; however, there was some confusion between the officers as to which apartment belonged to Victim A and which belonged to the Subject. Officer A informed Officer B if Victim A mentioned she had observed a gun, they would request an additional unit and a supervisor and then formulate a plan.

After the OIS, Sergeants A, B, C and D, along with Lieutenants A and B, responded to the incident. Sergeant A began providing direction, including designating roles. Sergeant B established a command post (CP) and Lieutenant B took over as Incident Commander (IC) at the CP. Lieutenant A, who assumed the tactical IC role inside the building, and Sergeant C relieved Sergeant A. Sergeant A then assumed the initial separation and monitoring responsibilities of Officers A and B. Sergeant D acted as the communications officer between the Subject and the officers on scene to encourage and facilitate the Subject's cooperation to surrender and exit his apartment. Sergeant C and Lieutenant A continued the planning and assessing of the tactical and equipment needs, role designations, extraction of Victim A and tactical beanbag shotgun discharge, which culminated in the Subject and an additional occupant submitting to arrest without the use of further force.

The UOFRB also noted Officer A is responsible for training new probationary police officers and highlighted some minor tactical concerns that although did not amount to a substantial deviation, should be addressed as part of the Tactical Debrief. The Board would have preferred Officer A direct Officer B to park offset and away from the building, rather than in front of the building. This would reduce the likelihood of providing the potential suspect with a tactical advantage as officers are trained to park away from the location in question so as not to alert a potential suspect of their arrival. Secondly, it is best practice to ensure the doors to a radio call location remain accessible to responding units should assistance be needed and to reduce delays in providing that assistance, which could include providing an access code to a secure building or utilizing tools such as doorstops, magnets, tapes or objects to prevent a secured door from fully closing and locking. In addition, although not a requirement, the Board would have preferred Officer A use the stairs instead of the elevator when accessing the floor in question, or in the case of multiple floors, utilizing the elevator to gain access one level below the floor in question. The UOFRB determined these concerns are best addressed in a tactical debrief.

Time – As Officer A was speaking with Victim A at the door of Apartment No. 202, the door to Apartment No. 201 suddenly opened. The Subject then raised what appeared to be a handgun in his right hand and discharged the weapon in the

direction of the officers and Victim A. While standing in the hallway and speaking to Victim A, the Subject's sudden actions limited the officers' ability to use time as a de-escalation technique.

Redeployment and/or Containment – Officer A stated he/she heard noises coming from Apartment No. 201. Unsure if this was the PR or suspect's apartment, Officer A took cover along the east brick wall in the hallway of the second floor and motioned to Officer B to join him/her behind the wall.

As the Subject discharged his weapon, Officer B took cover behind the brick wall.

Lines of Communication/Other Resources – Upon entry into the building, Officer B broadcast their updated location as a follow-up to Apartment No. 201.

When the door to Apartment No. 202 opened, Officer A motioned with his/her left hand for Victim A to exit her apartment. According to Officer A, Victim A stated, "He pointed a gun at me," and did not want to exit her apartment because she was scared.

After the OIS, Officer B broadcast, "Officer needs help, officer needs help, Apartment 201," and Officer A also broadcast a "help call." Officer B broadcast the Subject's description and Officer A broadcast the Subject's approximate apartment window location and for responding personnel to use the stairs and bring breaching tools. Officer A also requested responding personnel set up containment around the building.

Basic Firearm Safety Rules

After the OIS, the FID investigation observed on Officer B's body worn video (BWV) and hallway surveillance footage, that Officer A placed his/her finger on the trigger of his/her service pistol from approximately 2049:14 hours to 2049:29 hours (15 seconds) and again from 2049:34 hours until 2050:40 hours (one minute and six seconds). When asked by investigators, Officer A stated his/her finger was not placed on the trigger after the OIS.

The UOFRB assessed Officer A's adherence to the Basic Firearm Safety Rules; however, they were not unanimous in their findings. In their assessment, the UOFRB noted Officer A placed his/her finger on the trigger two separate times. The first time was for 15 seconds and the second time was for one minute and six seconds. The UOFRB Majority opined Officer A placed his/her finger on the trigger for a prolonged period of time, which was a violation of the Basic Firearm Safety Rules. The Majority additionally noted Officer A stated he/she did not place his/her finger on the trigger, but instead near the trigger guard. While these were the statements made by Officer A, the Majority opined Officer B's BWV and the surveillance camera clearly show Officer A's finger on the trigger during the aforementioned times. The Majority noted the placement of the finger on the trigger is not a preemptive movement but a fluid motion that occurs when an officer intends to shoot. Additionally, the Majority noted Officer A was behind cover at this time and while he/she may have heard movement behind the door, Officer A's

actions were not indicative of having to take a precision shot. While the Majority acknowledged the fluid and stressful nature of this incident, given this stress-inducing event, they opined Officer A increased the risk of experiencing an unintentional discharge by preemptively placing his/her finger on the trigger and allowing it to remain with no apparent intent to shoot. The UOFRB Majority concluded the tactic employed by Officer A was a substantial deviation, without justification, from Department-approved tactical training.

The UOFRB Minority considered the same facts and came to a different conclusion regarding Officer A's tactics. The Minority argued it was reasonable for Officer A to perceive the Subject was preparing to fire upon them again, given the entirety of the circumstances, including a prior shooting in which Officer A was shot. Although Officer A did not recall placing his/her finger on the trigger of his/her service pistol, the Minority noted Officer A's statements to investigators. Adding to the intensity of the situation, Officer A's focus was divided between acting in his/her Field Training Officer capacity to ensure the proper radio broadcasts were made while managing a tactically fluid incident. As a certified firearms instructor, the Minority acknowledged familiarity with the Basic Firearm Safety Rules and noted Officer A's statements in his/her second interview of removing his/her index finger and assessing. It should be noted that when an officer is assessing, there is no defined specific length of time to make that assessment. Although unable to see the Subject behind the door, Officer A heard noise consistent with someone manipulating a doorknob, which the Minority concluded was reasonable for Officer A to believe the Subject was preparing to fire at them. The Minority referenced the Subject had just discharged a weapon at them in this incident, the noise of a doorknob being manipulated, and Officer A's involvement in a prior OIS in which he/she was shot, as reasons that justified Officer A placing his/her finger on the trigger with the intention to shoot. The UOFRB Minority opined the tactic employed by Officer A in response to the threat posed by the Subject was a substantial deviation, with justification, from Department policy.

The BOPC considered both the Majority and Minority opinions, reviewed relevant video and the evidence presented in this case. In the board's assessment, Officers A and B were unexpectedly ambushed by the Subject as they attempted to interview Witness A at her door. The BOPC considered Officer A's training and experience, specifically his/her involvement in a prior OIS incident in which he/she was struck by gunfire. Upon hearing the sound of movement behind the Subject's door, Officer A and his/her partner were ambushed when the Subject suddenly and without warning opened his door and fired upon them. This unprovoked and sudden attack elevated the stress and intensity of the event. Under the duress of the ambush, Officer A responded by returning fire and broadcasting over his/her radio. After the initial ambush and the Subject retreated into the apartment behind the closed door, Officer A heard movement similar to that which preceded the initial ambush. Officer A indicated when the noise ceased, he/she lowered his/her finger from the trigger guard area. Upon hearing the noise again, Officer A reasonably believed the Subject was preparing to open his door and shoot at the officers and Witness A a second time, causing Officer A to move his/her finger toward the trigger. During this activity Officer A placed his/her finger on the trigger on two different occasions, one time that lasted over one minute.

The incident escalated to an apparent life-or-death situation as the Subject's actions demonstrated his apparent intent to murder Witness A and responding officers. A situation that persisted until the Subject peaceably surrendered. The BOPC found Officer A's belief that the Subject could attack them again by opening the door or through the closed door to be an objectively reasonable belief. While Officer A did not recall placing his/her finger on the trigger, under these circumstances, Officer A's placement of his/her finger on the trigger is a conditioned action during the ongoing response to such a threat. In consideration of Officer A's prior experience, the taxing circumstances confronted and the apparent conditioned response, the BOPC found the placement of his/her finger on the trigger to be a substantial deviation from Department-approved tactical training, with justification. As such, the BOPC recommended this topic would be best addressed through a tactical debrief and live fire and firearm manipulation training addressing this specific topic.

Based on the totality of the circumstances, the BOPC found the tactics employed by Officer A were a substantial deviation, with justification, from Department-approved tactical training.

Additional Tactical Debrief Topics

Tactical Communication/Planning – Arriving at the location, Officer A directed Officer B to park in front of the location. Upon entering the locked apartment complex using a tenant's key, Officers A and B did not place an object in the doorway to prevent it from closing and locking, delaying responding officers' entry. Officers A and B took the elevator to the second floor instead of the stairs. Upon arriving on the second floor of the apartment complex, the officers noticed Apartment No. 201 (the Subject's apartment) was directly to their left and No. 202 to their right, placing them directly in the line of fire. In addition, Officer B initially approached the Subject's door believing this was the PR's residence. Officer A directed Officer B behind a block wall for cover; however, Officer A allowed Officer B to return to No. 201, the front of the Subject's door, in order to listen to the noises behind the door. According to Officer A, at this time he/she and Officer B were still unsure which apartment was the Subject's.

Officers could have parked offset from the apartment building and used an object to prop the apartment complex's front door open to facilitate the response and entry of backup units. Additionally, officers could have considered using the stairs and requested further from Communications Division (CD) if unsure of the Subject's apartment.

Command and Control

- Sergeant A was the first supervisor to arrive at the scene and inquired if Officers A and B were injured and if they had been involved in an OIS. Sergeant A began establishing an arrest team. Sergeant B arrived and advised Sergeant A he/she would establish a Command Post (CP). Sergeant A had the group of officers redeploy further away from the Subject's residence, down the hall behind cover, to

allow more time for them to react should the Subject decide to exit with a weapon. Sergeant C arrived and took over operations, along with Lieutenant A. After discussions with Sergeant C, Sergeant A advised officers to obtain and don their ballistic helmets. Sergeant A removed Officers A and B and began monitoring them. Sergeant A transferred Officer A to supervising Detective A.

Sergeant C arrived at the scene and obtained pertinent information from Officer A. Lieutenant A arrived on the second floor and began coordinating the tactical decisions with Sergeant C. Sergeants A and C discussed facilitating personnel with donning their ballistic helmets. Sergeant C broadcast to all personnel via the radio that a beanbag shotgun was being utilized to remove a camera above the door of the Subject's apartment. After discussion with Lieutenant A, Sergeant C formulated a rescue team for Victim A and she was safely escorted out of the building. After Sergeant A advised the Subject was being asked to cooperate and exit, Sergeant C provided the arrest team with clear directions how he/she wanted the Subject positioned when he was handcuffed. Sergeant C directed Officer U to be contact when the Subject exited. After the Subject and an additional occupant exited the residence, Sergeant C assembled a team to clear the residence.

Lieutenant A, who was working as a supervisor in plain clothes with his/her Vice unit, heard the help call and responded. According to Lieutenant A, he/she declared himself/herself IC, but it was not captured over Central base frequency. At Lieutenant A's request, Officer A attempted to contact Victim A to verify she was not struck by gunfire or injured but were met with negative results. Lieutenant A advised officers in the hallway they were going to use the beanbag shotgun to disable the camera. Afterward, Lieutenant A discussed safely extracting Victim A from her apartment, so Sergeant C formed a rescue team. As the Subject exited his apartment, Lieutenant A obtained pertinent information from him to assess who else remained inside the Subject's residence and broadcast the Subject was in custody.

Sergeant B was assigned to an overtime detail within Central Area. Upon arrival, Sergeant B observed officers were already briefing Sergeants A and C and roles were being designated. Sergeant B advised the supervisors he/she would set up a CP and did so next to Central Community Police Station. Sergeant B began documenting his/her resources, assigned the tactical channel and delegated duties to arriving officers. Sergeant B also communicated pertinent information to the IC, Lieutenant A, with respect to making phone contact with the Subject. After running the CP for approximately five minutes, Lieutenant B arrived. After Sergeant A arrived at the CP, Sergeant B administered the Public Safety Statement (PSS) to Officer A and admonished him/her not to discuss the incident. Once the OIS location was safe, Sergeant B moved the CP to the OIS location and briefed FID personnel upon their arrival.

Lieutenant B heard the help call, transferred watch commander duties to Sergeant E, and responded to the CP where he/she met with Sergeant B and declared himself/herself IC of the CP. Lieutenant B heard Lieutenant A controlling the tactical portion of the incident, so Lieutenant B focused on the exterior of the location, perimeter and assessment of resources. He/she advised Sergeant E of

the OIS and to contact FID, while Lieutenant B contacted his/her commanding officer. Lieutenant B ensured Officers A and B were separated, monitored and provided a PSS. Sergeant D approached Lieutenant B and advised he/she was on the (speaker) phone and in communication with the Subject. Sergeant D advised Lieutenant B that the Subject was exiting his apartment.

Sergeant D responded to the help call and met with Sergeant B in front of the location, who advised him/her he/she would be establishing the CP. Sergeant D noted the location of the Subject's window and attempted to clear the area of personnel and community members of any potential threats in the immediate vicinity. Sergeant D broadcast there were sufficient units at scene and directed officers without an assignment respond to the CP. Witness A arrived and officers at the CP informed Sergeant D that Witness A was a friend of the Subject and indicated he would telephonically contact the Subject and have him exit his apartment. Witness A telephonically contacted the Subject and handed his cell phone to Sergeant D, who spoke with the Subject. Sergeant D informed Lieutenant B he/she had the Subject on the phone and was asking him to exit his apartment. Sergeant D said this information was communicated to the officers inside the location, so they were prepared should the Subject open his door. Sergeant D assumed monitoring duties of witnessing officers who were involved in the arrest of the Subject.

Sergeant E notified the Department Operations Center (DOC) of the OIS.

The UOFRB determined, and the BOPC concurred, the overall actions of Sergeants A, B, C, D and E, Detective A, and Lieutenants A and B were consistent with Department training and the BOPC's expectations of supervisors during a critical incident.

B. Drawing/Exhibiting

Officer A

After Victim A opened her door for the second time and directed the officers to the Subject's apartment, Officer A unholstered his/her service pistol and directed his/her attention toward the Subject's door, Apartment No. 201. According to Officer A, he/she unholstered his/her service pistol due to Victim A's statement that the Subject had pointed a gun at her and then hearing the door handle to Apartment No. 201 rattling. Officer A believed there was a "likelihood" deadly force would be necessary based upon the facts known at the time.

Officer B

According to Officer B, he/she unholstered his/her service pistol because the Subject pointed a gun in his/her direction and believed he/she was going to be shot.

The UOFRB assessed Officers A and B's drawing and exhibiting of their service pistols. The Board noted Officer A was made aware the Subject had a handgun

after speaking with Victim A. Officer A then heard movement behind the door of Apartment No. 201, the Subject's apartment, and unholstered his/her service pistol. Officer B unholstered his/her service pistol when the Subject opened his door and pointed a handgun in his/her direction. Based on the information provided by Victim A and the Subject's actions, the Board opined it was reasonable for Officers A and B to believe the situation could escalate, or had escalated, to where deadly force may be necessary.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, an officer with similar training and experience as Officers A and B would reasonably believe the situation had escalated to where deadly force may be justified. Therefore, the BOPC found Officers A and B's Drawing/Exhibiting to be In Policy.

D. Lethal Use of Force

Officer A— (pistol) three rounds in an easterly direction from an approximate distance of 12 feet.

According to Officer A, upon making contact with Victim A, she pointed at Apartment No. 201 and informed the officers the Subject "pointed a gun" at her. Officer A then took cover behind a concrete wall and directed his/her attention toward Apartment No. 201. Suddenly, the door to Apartment No. 201 opened and the Subject, while standing in the doorway, raised what appeared to be a handgun in his right hand and discharged the weapon in the direction of officers and Victim A. In response to the Subject's actions, Officer A raised his/her service pistol in a two-handed shooting position and discharged three consecutive rounds at the Subject. The Subject then closed the door. Officer A stated he/she believed the Subject was trying to kill him/her and defended himself/herself.

The UOFRB assessed Officer A's use of lethal force. The Board noted while Officers A and B were making contact with Victim A, Officer A heard noises coming from the Subject's apartment. When Officer A directed his/her attention towards the Subject's apartment, the Subject opened his door and discharged, what appeared to be a handgun, in the direction of the officers and Victim A. The Board noted that in response to the Subject's actions, Officer A responded to a perceived imminent threat to himself/herself, Officer B and Victim A. The Board opined Officer A had a right to defend himself/herself, his/her partner and the victim. Based upon the Subject's actions, the Board opined it was reasonable for Officer A to believe the Subject posed an imminent deadly threat.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, an officer with similar training and experience as Officer A, in the same situation, would reasonably believe the use of lethal force was proportional, objectively reasonable and necessary. Therefore, the BOPC found Officer A's Use of Lethal Force to be In Policy.