

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

**OFFICER-INVOLVED SHOOTING – 014-22**

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

Central                      5/3/22

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

Officer EE                      29 years  
Officer FF                      27 years, 7 months

**Reason for Police Contact**

On Tuesday, May 3, 2022, at approximately 0809 hours, officers responded to a radio call of a male, 52 years of age, with suicidal ideation, under the influence of alcohol and unknown drugs. While responding, the Los Angeles Fire Department (LAFD) contacted a belligerent Subject and requested back up. The responding officers contacted the Subject, who pointed a handgun toward them and LAFD personnel. The Los Angeles Police Department (LAPD) Metropolitan Division Special Weapons and Tactics (SWAT) responded. The Subject discharged a pistol, resulting in an Officer-Involved Shooting (OIS).

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

Subject: Male, 52 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 (CUOF) 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 (FID) 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 (UOFRB) 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 March 14, 2023.

### **Incident Summary**

The incident began at 0756 hours, when an LAFD operator received a 911 call from Witness A. At 0808 hours, the LAFD Operator contacted an LAPD Emergency Board Operator (EBO). The LAFD Operator advised the EBO that LAFD was responding to a psychiatric emergency with suicidal ideation. Additionally, the LAFD Operator advised that there were no weapons involved and informed of possible drug and alcohol ingestion.

At 0809:58 hours, Communications Division (CD) broadcast, "Any Central unit, ambulance attempt suicide" and provided the location.

At 0812 hours, CD assigned the call to Police Officers A and B.

At 0818 hours, the LAFD operator contacted CD and requested that the call be upgraded to a "back-up," citing the Subject was belligerent in the fifth-floor hallway.

At 0819:14 hours, CD broadcast to Central units that LAFD was requesting back-up at the location with a belligerent patient in the fifth-floor hallway and upgraded the call to a Code Three (vehicle emergency lights and siren) response.

Sergeant A also responded to the radio call.

Upon their arrival, Officers A and B went to the fifth floor, outside of the Subject's apartment, to meet with LAFD personnel. At scene were Firefighter/Paramedics A and B and LAFD Fast Response, staffed by Firefighter/Paramedics C, D, and LAFD Captain A. According to Body Worn Video, (BWV), Firefighter/Paramedic B told officers that the Subject inside was on methamphetamine, belligerent, and in an altered state. Firefighter/Paramedic B requested the officers to detain the Subject so they could sedate and transport him for medical treatment. They stated that due to the Subject's altered state, they were not able to leave. Additionally, Witness A was standing in the hallway with LAFD during this conversation.

The officers were met by an unknown person at the apartment door (Witness B), who Witness A identified by first name only. Upon the officer's request, Witness B left the apartment and there was no further contact with her. Officers A and B attempted to communicate with the Subject, who refused to exit the apartment.

According to Officer B, the Subject was inside the apartment, standing at the end of the hallway to the left behind a wall. Officer B verbalized with the Subject and attempted to have him exit the apartment so that LAFD could take him to the hospital. At one point, Officer B noticed that the Subject had a knife in one of his hands and advised him to drop it. Officer B then could no longer see the knife in his hands as the Subject retreated back behind the wall.

Officer A stated that Officer B observed the Subject with a knife and called it out. Officer B stated he/she saw what appeared to be a steak knife, black handle. At which point Officer A deployed his/her Taser for the possible threat if he were to come out from the hallway. Officer B felt they had enough distance where he/she was comfortable with, because the Subject was around the corner from a wall, approximately 15 to 20 feet away. Officer A added that he/she also had the front door to close for distance and cover, if needed.

Sergeant A, along with Officers E, F, G, and H arrived at approximately 0827 hours. According to BWV, these officers were present when Officer B observed the Subject with the knife.

Officer A continued to communicate with the Subject, who stayed behind the corner, only exposing part of his body. Multiple times during this incident, the Subject threw objects in the direction of the officers, including a mop and large potted plant. Officers asked Witness A if there were any guns inside his apartment. Witness A stated that the Subject did not have a gun in his apartment.

According to Sergeant A's BWV, at 0831:05 hours, the Subject yelled incoherently. At 0831:14 hours, the Subject, from behind a wall, brought his left hand out and pointed a pistol in the direction of the officers and firefighters. Officer B stated out loud, "He's got a gun" as the officers and LAFD personnel moved away from the doorway.

According to Officer B, as he/she turned back to look at the Subject, he/she recognized what appeared to be the barrel of a semi-automatic pistol being pointed directly at him/her. Officer B immediately unholstered his/her pistol due to the tactical situation and possibility that he/she might have to use deadly force, and he/she redeployed to the east side of the doorway. To avoid crossfire and put himself/herself in a safer position if the Subject were to exit the apartment, Officer B then redeployed to the west side of the door.

Officer A stated that he/she looked down the hallway and observed the Subject's hand and arm come around the corner of the wall and saw the top half of a tan slide and silver barrel of a pistol being pointed at him/her. Officer A holstered his/her Taser and unholstered his/her pistol, as he/she believed that the situation could rise to deadly force, as the Subject was armed with a pistol.

Firefighter/Paramedic C stated that officers were trying to de-escalate the situation and ordered the Subject to drop the knife and show his hands. At one point, the door opened up and he/she saw what looked like a pistol coming out and being pointed in his/her direction. As soon as he/she observed the barrel of the black pistol, the door closed. According to Firefighter/Paramedic C, everyone moved to the side. Some of the firefighters that were to the right of the door fled out through a window and down the fire escape down to the fourth floor.

Witness A was interviewed by Officer F. According to his/her BWV, at 0834:34 hours, Witness A advised him/her that the Subject was known to carry a pistol and had pointed it at him in the past.

Sergeant A contacted Lieutenant A and briefed him/her of the situation. Sergeant A pulled everybody back down the hallway and LAFD personnel went down the fire escape. Sergeant A broadcast a request for backup for "a man with a gun" inside the apartment. According to Sergeant A, Lieutenant A advised him/her that he/she would respond and set up a Command Post (CP). Sergeant A then started designating units as less-lethal and lethal and requested a shield. Sergeant A then started to access the layout of the floor on what areas needed to be covered for potential crossfire and danger. One such area was the staircase, which was in a direct line of sight to the Subject's room, so Sergeant A needed to get a unit to guard this area to prevent people from coming up and down, entering on the fifth floor.

Between 0836:55 and 0838 hours, four officers responded to the fifth floor through the east staircase. On Sergeant A's BWV, he/she asked the officers how they arrived at the fifth floor, and they notified him/her that there was a staircase south of the Subject's apartment. Sergeant A tasked Officer F to request a responding unit to hold the staircase to prevent entry to the fifth floor. Ultimately, the access was covered until the arrival of SWAT officers.

At approximately 0838 hours, Sergeant A had Officer H with a ballistic shield stage west of the Subject's door. Officer G provided lethal cover with the shotgun. Patrol Officer I was armed with the 40 millimeter Less-Lethal Launcher (40mm LLL). Sergeant A requested the LAPD Mental Evaluation Unit (MEU) to respond to the location and additional units to assist in evacuations. MEU Sergeant B and Police Officer J ultimately responded.

According to Sergeant A, as the officers were in the hallway, they continued their attempts to have the Subject exit the apartment. The Subject stated, "yes," so officers periodically gave commands to the Subject to come out unarmed with his hands up, but he just kept rambling incoherently. It seemed that the more officers would try to communicate with him, the more agitated he would become, so that's when Sergeant A advised the Incident Commander (IC) of the status.

At 0849 hours, Lieutenant A responded and established a Command Post (CP). At 0930 hours, Central Division Captain A arrived at the CP and assumed the role of IC.

At approximately 0930 hours, Lieutenant A contacted the Metropolitan Division SWAT Lieutenant B. According to Lieutenant B, he/she was advised that during the radio call, the Subject produced a pistol and pointed it at the officers. Lieutenant B requested Lieutenant A to ensure that the officers and firefighters were interviewed, and that the appropriate crime reports were completed. Lieutenant B also requested Lieutenant A to have the officers' BWV reviewed to verify the crime of Assault with a Deadly Weapon (ADW).

Lieutenant B was also contacted by Captain A, at which time he/she verified that MEU had been contacted. Lieutenant B also requested Captain A to obtain a search warrant for the apartment. A search warrant was completed by Detective A and signed by Los Angeles County Superior Court Judge A at 1137 hours.

Once Lieutenant B had all the necessary information, he/she determined that it met the criteria for a SWAT response to a barricaded suspect.

As SWAT members responded, Lieutenant B provided the responding SWAT officers with information regarding the incident via radio and email. The following SWAT personnel responded to this incident and were involved in the tactical operation: Lieutenant B, Sergeants C, D, and E, and Police Officers K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, BB, CC, and DD. Commander A, also responded to this incident. Lieutenant B remained at the CP during this incident. Sergeant C was designated as the Squad Leader and Officer K was designated as the Element Leader.

Firefighter/Paramedics C and D were present at the time of the initial radio call. Firefighter/Paramedics C and D were trained as Tactical Emergency Medical Support (TEMS) and deploy with SWAT assets during tactical operations to render immediate medical aid to injured citizens and police personnel.

At 1015 hours, Officer K arrived at the CP and was briefed by Lieutenant A. Officer K was advised that there was a signed Investigative Report (IR) for ADW with a Firearm on a Police Officer. There was also a signed IR for Brandishing for LAFD Firefighter/Paramedic B.

Operations Central Bureau Commander B arrived at 1022 hours and took over as Incident Commander from Captain A.

Resources from SWAT began to arrive at the scene. Once enough element members were present, they moved to the fifth floor to replace the non-SWAT officers.

Officer K designated Officers EE and EE as snipers, which utilize the designation, Sierra Team. Officer K stated that there was a building directly across the street, so his/her thought process was to get a Sierra Team at or above the level that the Subject's apartment was on for several reasons. One reason was to provide intelligence, in addition to having magnified optics. The Sierra Team could also address any deadly threat posed by the Subject. From where the Subject was located, he had the ability to look east and west down the street, and Officer K did not believe it was feasible to evacuate hundreds of apartment units.

Officers EE and EE deployed to the seventh floor and were given the unit designation Sierra Four. The officers positioned their rifles recessed from the window to aid in concealing their location. Officer EE placed screens over the windows and a dark cloth

behind them to darken the background to conceal their location. Officer EE removed his/her tactical vest with the BWV attached once he/she was on the seventh floor.

According to Officer EE, the majority of the deployments that they see are in more urban environments where the suspect is in a structure. In this case, Officer EE stated that the distance was approximately 26 yards, with only one window, so there was no question about where the Subject would appear. In this case, two snipers share the responsibility where they would have one person on the rifle and the other person taking a break, and they would switch every 10 or 15 minutes because it is just not possible to be a hundred percent attentive for an extended period.

A Crisis Negotiation Team (CNT) was established with Sergeant C and Officers M & AA. Sergeant C remained at the CP with Behavior Science Section (BSS) Psychologist A. The personnel assigned to the CNT were dressed in plain clothes, a tactic used to assist in building rapport with subjects. Both were wearing their tactical vests and were not equipped with BWV.

Officers K and N were briefed on the fifth floor by Sergeant A, who directed them to the Subject's apartment and provided them with a general layout. Officer N formed an arrest team, replaced Central Division officers, and continued evacuations, while Officer K scouted the area.

According to Officer N, they needed to make some evacuations for apartments east of the Subject. Officer N also requested a bunker shield so this could be situated in the hallway for safety and to provide them with distance and time in the event the Subject exited the apartment. While Officer K was scouting the location, he/she stated that he/she had a full contingent of SWAT officers with him/her; therefore, he/she was able to release the non-SWAT officers.

According to Officer K, at the end of the hallway, east of the Subject's apartment, were a fire escape and window. Officer K was concerned that if the Subject exited the apartment, he could run to the window and go up or down the fire escape, so this needed to be contained. Officer K did not want the Subject to gain an elevated position of advantage, armed and above where the CP was located.

At 1043 hours, Officer K requested that a Shockwave Taser and the area denial bag be brought to the fifth floor. The Shockwave Taser is equipped with six Taser cartridges per tier with a three-tier configuration. It has an automatic five- second burst per tier. An area denial bag is a large, rubberized bag which is inflated by an air tank.

At 1048 hours, Officers R and U moved the bunker shields east in the hallway. Officer R placed one bunker shield directly in front of the Subject's apartment, while Officer U moved the other bunker shield into the hall south of apartment. Officer P provided cover for Officer U with his/her rifle. As Officer R moved forward with the bunker shield, he/she unholstered his/her pistol. According to Officer R, he/she unholstered because the situation could rise to a deadly force option. Officer U also unholstered his/her pistol

during the movement of the bunker shield, stating it was necessary due to the close quarters of the short hallway.

Initially, Officer Z was utilizing the 40mm LLL; however, he/she placed the 40mm LLL on the floor and unholstered his/her pistol as he/she stood in front of the Subject's apartment. According to Officer Z, at that point, he/she was very close to the Subject and knew that the Subject was armed inside. Officer Z stated that the Subject had already brandished his weapon at police and fire personnel, so he/she unholstered because the situation could escalate to the use of deadly force.

At approximately 1050 hours, Officer L placed a Recon Scout Robot, (a small remote controlled robotic device) in front of the apartment door, to have a view into the apartment, to monitor any movement within. Officers also conducted the evacuations of the apartments east of the Subject.

Officer K stated that at approximately 1050 hours, Sergeant D, Officer P, and he/she responded back to the main hallway. Officer K stated when he/she got there, officers discussed K-9 deployment protocols, and they decided that K-9 units would not be used. Officer K then decided to reduce the number of personnel in the hallway in the event the Subject decided to put his hand out of the door and begin firing rounds down that hallway.

After the second bunker shield was in place, Officer R returned to the west hallway. Officer R transitioned back to his/her rifle as the Designated Contact Officer (DCO), while Officer Z holstered his/her pistol to arm himself/herself with the 40mm LLL.

Officer K deployed Officers W & BB to the sixth floor and Officers X & Y to the fourth floor to cover the fire escape window, in the event the Subject was able to flee from the fifth floor.

At 1111 hours, in order to complete evacuations and deploy the area denial bag, Officer R again transitioned from his/her rifle to his/her pistol and moved the shield to the front of the apartment. Officers S and U deployed the area denial bag in front of the fire escape, while Officers L, N, and T conducted the fifth-floor evacuations.

According to Officers L and N, they were able to enter adjacent apartments to that of the Subject and, once inside, they contacted Officers EE and FF to inform them of the exact position and window where the Subject was located.

According to Officer FF, once he/she was informed of the exact location of the Subject, he/she was able to determine that the window was open and look inside. Officer FF described the window as being very large, approximately six by eight feet, with blinds in the middle. On the right and left sides of the window, there was an opening, probably eight by twelve inches. Officer FF stated that when using his/her rifle scope, he/she could see what appeared to be a leg in a, but it was hard to tell because it was dark inside. Officer FF relayed this information to Officer EE, who was right next to him/her,

to come and look at it. When Officer EE viewed it, he/she agreed that it looked like a leg and possibly a knee.

Officer L placed the Shockwave Taser device near the front door of the Subject's apartment. Officer T was tasked with control of the Shockwave Taser.

Officer K attempted to utilize an adjoining apartment to minimize their exposure in the hallway; however, they were not granted permission to use residential apartments. According to Officer K, they now had the bunker shield, lethal weapons, a less-lethal weapon with the 40mm LLL, as well as the Shockwave Taser in place, which has traditional Taser darts. The Shockwave Taser is activated by a wire controller that was being manned by Officer T. Officer K left the arrest team and CNT in place. He/she moved everybody else back down the hallway, to get as officers out of there as possible, and he/she turned it over to the negotiators. The primary negotiator was Officer AA and the secondary negotiator was Officer M. They attempted to contact the Subject throughout the entire incident, up to the point when the OIS occurred.

According to Officer AA, upon arrival at the CP, he/she spoke with Lieutenant B, who advised that the Subject did have prior MEU contacts. Officer AA met with MEU personnel and was briefed about the prior contacts they had with the Subject. On all prior MEU contacts, the Subject refused any further treatment when offered. MEU personnel related that the Subject was possibly suffering from schizophrenia or bipolar disorder.

According to Officer AA, after he/she spoke with MEU, he/she interviewed Witness A, who informed him/her that he sublets a room to the Subject. He provided a phone number that was relayed to the CP. Officer AA stated that Officer M took the lead on trying to contact the Subject. Witness A informed Officer AA that on a prior occasion, he observed the Subject foaming at the mouth and was incoherent. Witness A informed Officer AA that the Subject might be under the influence of methamphetamine.

Officer AA attempted to get an audio recording from Witness A to play for the Subject. However, due to Witness A stating that their relationship was sometimes contentious, Officer AA decided against it. Witness A had no further contact information on any friends or family members of the Subject.

Officers M and AA brought a Long-Range Acoustical Device (LRAD), a loudspeaker system, to the fifth floor. The LRAD was placed in the hallway, along the south wall in front of the arrest team. Officers M and AA were positioned east of the arrest team. At approximately 1147 hours, Officer K and Sergeant D completed containment and turned the incident over to the CNT.

In order to maintain an accurate timeline, the following times will be based on Officer K's BWV. At 1154 hours, Officer R's BWV was inadvertently turned off. The video was re-activated at 1255:19 hours, after the incident was over.



Officer AA utilized the LRAD to communicate with the Subject. Officer AA introduced himself/herself and he/she works with the police. According to Officer AA, using his/her first name creates more of a personal effect and emphasizes the Subject's safety while trying to communicate. Numerous attempts were made and techniques utilized to communicate with the Subject, including Officer M sending text messages and all were ineffective.

Officer M utilized the LRAD and advised the Subject he/she was the person trying to call and text his cell phone. At 1153 hours, Officer M issued a warning to the Subject. According to Officer M, he/she provided a "Garner" (pending use of force) warning and a K-9 warning because there was the potential for tactics to be used that could hurt him and a dog that could possibly bite him.

Officer M was not wearing his/her ballistic helmet while in the hallway.

According to Officer AA, he/she also provided a Garner warning, advising the Subject that if he failed to comply with their commands, the situation could arise to where tactics could be used against him or force could be used against him that could cause great bodily injury or possibly even death.

Sergeant C and Doctor A were receiving updates on their progress from Officer M. Officer M stated that Doctor A agreed with the game plan they had and tactics they were using, and that it didn't seem like they were going to get any dialogue with the Subject or compliance from him. So at that point, everyone agreed that they would probably reach an impasse and would have to hand the incident over to tactics.

As there had been no response or communication with the Subject, a plan was developed to use a 40mm LLL sponge round to strike the door, a tactic used to gain the Subject's attention. The plan was approved by Sergeant D and Lieutenant B. Officer K advised all SWAT officers that the 40mm LLL was going to be fired.

According to Officer EE, he/she was taking a break when the plan was to implement a tactical plan. Officer EE realized this is when there was a high likelihood of some type of adverse reaction by the Subject. Officer EE stated it was to their advantage to have both he/she and Officer FF watch the Subject at this particular point.

At 1203:26 hours, Officer O fired one 40mm LLL round, from behind the bunker shield south of the Subject's apartment, striking the door.

According to Officer FF, once the round struck the door, the Subject "jolted" and moved his leg, which he/she relayed to Officer EE. Officer EE broadcast "Sierra Four, we believe we see his leg." Officer EE also stated that the Subject was seated on a mattress set into the window, and it looked like the Subject moved when the 40mm LLL sponge round went off.

After the deployment of the 40mm LLL, Officer AA continued to verbalize with the Subject via the LRAD, advising the Subject that the police were at the door and to come out with his hands up.

Officer AA continued using the LRAD to order Subject to exit the apartment. After no response, at 1204:22, Officer O fired one additional 40mm LLL sponge round, from behind the bunker shield south of the Subject's apartment, striking the door. Officer AA again continued to order the Subject to exit the apartment.

According to Officers EE and FF, there was no response from the Subject after the second deployment of the 40mm LLL sponge round.

Officer K stated that he/she believed that the Sierra team reported that the Subject was on the bed. After the second 40mm LLL sponge round, the Subject never moved. The CNT kept communicating with the Subject and informed him that there was a search warrant for his apartment.

At that point, a gas plan was discussed with Sergeant D and Officer V, who was running the T5 robot. Officer K told Officer V that he/she wanted to move T5 robot up to try to push the door open. Officer K was hoping with the multiple cameras that are on that T5 robot that the robot might pick up any movement(s) of the Subject. The T5 robot also has a headset. Officer K directed Officer AA, who was the primary CNT negotiator, to be on the headset and continue to communicate with the Subject. While we were doing that, Officer AA continued to direct the Subject to surrender, put down his weapons, and to exit the apartment.

Sergeant D and Officer K discussed their next step, combining tactics with the CNT. Officer V stated that at that point, he/she was approved and given the command to move the T5 robot down to the hallway to determine if he/she could see inside the Subject's apartment, utilizing the robot cameras. Officer V was able to get the robot to the front door and look through it as much as possible. There were some items behind the door which denied Officer V the ability to completely open the door, but he/she was able to get the camera device in to see at least the threshold all the way to the back side of the apartment, which they were calling "Side 3," the window facing the street. Officer V was unable to see the Subject, but he/she could see the foyer area and window, and he/she was able to hear some movement. And then Officer AA utilized the headset to attempt communications via the microphone, but he/she had negative results.

According to Officer V, their supervisor declared their negotiations an impasse. A plan was made to go tactical, which included the utilization of gas munitions to effect the Subject's surrender. The initial gas plan was to utilize an Oleoresin Capsicum (OC) vapor, followed up with a Chlorobenzyl Malononitrile (CS) gas munition, along with some penetrating "Ferret" rounds that would be fired inside to disperse the chemical gas. Officer V utilized the robot to open the door as much as possible to give the officers the ability to deploy those gas munitions.

According to Officer K, he/she began discussing gas options with Sergeant D. They also consulted with LAFD, due to the building sprinkler systems and alarm issues. Officer K and Sergeant D developed a gas plan, which included LAFD personnel having a fire plan in place. The first part of the gas plan was for Officer P to fire four Ferret gas rounds, alternating OC and CS, from a multi-launcher into the Subject's apartment. The plan was presented to Lieutenant B and approved by Commander B.

Prior to the gas plan being initiated, LAFD personnel located and turned off the water valve to the sprinkler system, in the event the insertion of gas activated the sprinklers. Officer K also met with LAFD personnel in the event the Subject exited and was combative. LAFD personnel advised they had a shot of Versed, to help him relax.

At 1223:06 hours, Officer AA issued a use of force warning to the Subject that the police may use tactics that might hurt him and could cause serious bodily injury, maybe even worse. Officer AA advised the Subject to surrender immediately and that this was his final warning.

Officer P stated that he/she decided to fire the Ferret rounds into the apartment from a safe distance from the Subject's front door so that he/she would not have to expose him/herself. At 1223:48 hours, Officer K broadcast to initiate the gas plan. Officer P fired four Ferret rounds from behind the bunker shield, and he/she then placed the multi-launcher in the stairwell behind him/her.

As the Ferret rounds were fired, the Subject can be heard saying, "Who is it? Officer AA continued attempts at communication and responded using the T5 robot speaker, telling the Subject to give up immediately. Officer AA told the Subject to slowly put his hands up and he/she would guarantee his safety. Officer AA told the Subject to walk towards the door slowly with his hands up and to have his hands empty.

Both Officers EE and FF observed the Subject react to the Ferret rounds. They described him putting his head and torso out of the window, as if trying to get fresh air.

Officer EE described the Subject as being visibly affected by the gas, with mucus coming from his nose, coughing and gasping for air. The Subject was also yelling or screaming. Officer EE can be heard on his/her BWV broadcasting after the third Ferret round was fired, "Sierra Four, there is movement." After the fourth Ferret round, the Sierra Four unit broadcast that the Subject was at the window, visibly affected by the gas and has his head out of the window gasping. Officer EE continued broadcasting that the Subject was at the window gasping, his hands were clear, he was turning back towards the door, and he was wiping his face with the window covering.

Officer K and Sergeant D discussed their next step and decided that the second phase of the gas plan would be OC vapor. This decision was based on the fact that the OC vapor does not smoke, is a non-pyrotechnic, and will not obscure any of the officers'

vision in the event the Subject does try to exit. This plan that the OC vapor would be inserted into the apartment was approved by the IC.

Officer K advised Officer P to deploy the OC vapor, as the CNT continued their attempts at communication through the T5 robot speaker. Officer AA advised the Subject to walk slowly toward the front door in the hallway and that the gas was going to get worse. The Subject was advised that the window would not help him.

According to Officer K's BWV, at 1224:50 hours, Officer EE broadcast that the Subject had his head out the window and both hands were clear. At 1224:56 hours, while Officers EE and FF were watching the Subject with his head outside the window, Officer P approached the door from behind the bunker shield. Officers O and Q provided cover for Officer P. Officer P pulled the pin on the canister, moved past the bunker shield, and underhand tossed the canister of OC vapor into the apartment.

Officer AA continued speaking to the Subject, which is captured on BWV, telling him to walk backward and come to the hallway, not to the window.

Officer EE broadcast, "Sierra Three, he is visibly affected, he's kind of yelling out." Officer EE observed the cloud of gas from the OC vapor and continued to broadcast his/her observations, "Sierra Three, no change. Sierra Three, still out the window, rubbing his eyes."

According to Officer K, the Sierra Four team reported that the Subject was at the window. At that point, the small amount of CS delivered by the Ferret rounds and the OC was affecting him; however, he was able to defeat that by going to the window to get fresh air. Officer K again conferred with supervisors for additional gas to be deployed. Officer P deployed the OC Vapor and then, when instructed to, deployed a gas/smoke canister. At that point the Sierra Four team said that the Subject was still at the window and attempting to climb out. The CNT was continuing to talk to him through the T5 robot with no success.

At 1226:22, Officer K directed Officer P to insert one gas/smoke canister into the apartment. Officer P then approached the door from behind the bunker shield, while Officers O and Q provided cover. Officer P pulled the pin on the canister, moved past the bunker shield, and underhand tossed the gas/smoke canister into the apartment.

According to Officer P, he/she was instructed to get the gas/smoke into the room. Upon tossing the device into the room, Officer P stated that the gas was effective and the smoke was so thick in the apartment that he/she could not see the Subject, but he/she could hear him. Officer P also deployed the OC vapor.

According to Officer EE, when it was decided to deploy a more concentrated form of gas, he/she actually saw the Subject react and look back, and he seemed very startled and alarmed. The Subject actually pushed himself a little bit more out of the window, but he still had both hands on the windowsill and only his upper torso extending

outward. Officer EE could see the gas approaching the window and observed the Subject start to climb out the window, placing his right knee on the windowsill and extending his entire torso & right side of his body outside the window.

Officer EE described that the Subject had his left hand on the inside of the window, kind of holding himself, and Officer EE thought that he was going to fall out the window to the street below. The Subject continued to cough, gasp, spit, and yell. Officer EE stated that the smoke from the gas started coming out the window and, within a few moments, it obscured pretty much everything, except for maybe the top of his head. Officer EE verbalized to Officer FF that all he/she could see was the top of his head, and then Officer EE lost sight of him completely due to the smoke.

According to Officer FF, the gas was inserted into the room and started coming out of the window where the Subject was located. Officer FF stated that the gas agitated the Subject and he tried to escape from it. Instead of exiting out on his own to the front where fresh air was and being taken safely into custody, he opted to stay at the window. The Subject started to step out of the window where and was almost halfway out to gasp for more air, but the gas kept billowing inside the apartment.

Officer EE broadcast his/her observations to the team as Officer AA gave directions to Subject through the T5 robot speaker.

At 1227:42 hours, a video obtained by Witness C showed that the Subject had retrieved a pistol and returned to the window. The Subject fired one time in a north direction out the window and lowered the pistol. The Subject then raised the pistol above his head and began to lower it when both Officers EE and FF each fired one rifle round.

According to Officer EE, the smoke started to dissipate slightly and he/she could see the top of the Subject's head. Officer EE then saw the upper part of his torso emerging from the smoke and saw the Subject's right hand. According to Officer EE, It looked like he was extending his right hand from the right side of his body outward from the window in a northbound direction and slightly in a downward angle. Officer EE saw an object in the Subject's hand. Shortly thereafter, Officer EE recognized the object as a pistol, and the Subject fired a round in a north/northeasterly direction and at a slightly downward angle.

Officer FF stated that as the Subject exited out of the window, he/she could see what appeared to be a pistol in his right hand. Shortly thereafter the Subject started firing in a northeasterly direction towards the street level intersection.

According to Officer EE, he/she was aware there were officers at street level conducting traffic control, as well as pedestrians on the street. From his/her position, Officer EE also observed numerous people looking out their windows of the buildings nearby. Officer EE described the building he/she was inside as having only two unoccupied units on the seventh floor, and no one in the building was evacuated, so it was likely the residents were also looking out their windows as Subject was screaming.

Officer EE described the Subject as holding the pistol in his right hand, pointed in a north to northeasterly direction and downward. Officer EE stated that when the Subject fired the shot, he/she could not specifically tell what the Subject was aiming at, but that it was at an angle that could have been at the street or lower level of his building. Officer EE knew that he/she could not allow this to continue, so as soon as he/she observed the Subject fire, he/she realized that he/she had to utilize deadly force to stop his actions to prevent anybody from being injured or killed; so this is when he/she fired.

Officer EE stated that the right side of Subject's body was exposed toward him/her, and he/she was aiming just below the neck area when he/she fired one round from an approximate distance of 26 yards. Officer EE described his/her background as the floor of Subject's apartment. Officer EE believed that the floor was "probably concrete" and the round would not penetrate the floor.

According to Officer FF, the Subject posed a deadly threat by firing indiscriminately into the area of the street intersection. Officer FF stated that he/she believed that there were citizens in the area walking around and officers at perimeter locations, in addition to person(s) living in the storefronts. Officer FF stated that in defense of their lives, he/she felt that the Subject was posing a deadly threat, so he/she fired one round at the Subject while he was there firing with his pistol. Officer FF stated he/she was aiming at the largest part of the Subject's center body mass when he/she fired one round from an approximate distance of 25 to 26 yards.

Approximately three seconds after the Subject fired his pistol, he raised it above his head and began to lower it, pointed in a northern direction. Both Officers EE and FF each fired one round simultaneously at the Subject from approximately 25 to 26 yards at a downward angle in a southern direction, striking the Subject and causing him to fall backward onto the bed in the apartment. Officer EE broadcast that he/she had fired at the Subject, who was now down just inside the window.

According to Officer EE's BWV, Officer EE asked Officer FF, "Did you fire?" Officer FF responded, "Yeah." Officer EE then replied, "Yeah, same here." Officer EE notified the CP to have patrol officers check the street below the apartment for the pistol, and Officer EE continued to monitor the Subject until an arrest team entered the Subject's apartment.

Both Officers EE and FF cycled a live round into their rifles' chambers approximately 45 seconds after the OIS.

A 9mm pistol with a 17-round magazine was recovered from the street below. The pistol was lying on its right side with the muzzle pointing south and the magazine body fully inserted. A discharged cartridge case was caught in the ejection port (stove-piped), holding the slide partially open and a live cartridge was being fed into the chamber from the magazine. The magazine body was missing the follower, spring,

base plate, and base plate insert -- which were all recovered at scene. There were 15 live rounds scattered across the street and sidewalk.

Officer K heard what he/she believed to be two gunshots and was unsure who had fired. Officer K stated their standard operating procedure after they believe shots were fired is to pause the radio to allow it to be broadcast. Officer K heard Officer EE advise "Shot away" and the Subject was down in the apartment. Officer K stated that his/her first priority was to render aid in a safe manner. Officer Z moved the bunker shield to the front door, along with Officer T, and Officer R providing lethal cover. Officer L deployed a recon robot inside the room. Due to the large amount of debris inside the apartment, Officer L was unable to see the Subject's hands and if he was armed.

At 1231:50 hours, Officer R utilized a handheld shield and transitioned to his/her pistol for entry into the apartment, with Officer L using the pole camera. Officer R stated that he/she transitioned to his/her pistol for the ease of movement and tactical considerations. At 1232:06 hours, Officer L utilized a pole camera; however, he/she was unable to verify the condition of the Subject's hands.

At 1232:51 hours, Officer R entered the apartment, along with Officers L and T. They entered into the apartment a few feet with the pole camera, which was unsuccessful. The pole camera was removed from the apartment and handed to Officer P. As Officer P turned to place the pole camera behind him/her, his/her BWV captured an unknown citizen walking up the stairs toward the fifth-floor landing, where SWAT equipment was being staged. Officer P directed the citizen to return to his apartment.

At 1233:15, Officer K advised the team, "If he's not moving, let's move up." Officers L, R, and T approached the Subject, who was lying on the bed. At 1233:54, Officer L pulled the Subject's left arm out from under him and placed both hands behind his back but did not handcuff him, at the direction of Officer K. At 1234:42 hours, LAFD personnel entered the apartment to provide medical treatment. Officer R stood on the bed over the Subject, utilizing his/her handgun as cover for LAFD personnel. The Subject did not respond and was declared deceased by LAFD personnel at approximately 1238 hours.

Once the arrest team entered the apartment, Officers EE and FF made their rifles safe by placing the bolt in an upward position.

Witness C had parked her car on the street when she heard a man screaming at the intersection. Witness C described the screaming as someone complaining that he was in pain, at which time she began to record on her phone. According to Witness C, the crime scene tape was up at the corner of the intersection, and she was standing behind the tape while she filmed. Witness C stated that half the Subject's body was hanging out window and she heard him scream, and then the Subject came out of the window and was waving and touching his eyes. Witness C stated she could see a lot of smoke coming out the window, and the Subject appeared excited and looked like he was going to jump out the window.

Witness C stated that as the smoke was coming out of the window, the Subject grabbed a pistol from inside and fired two shots. Witness C described the pistol as having been inside the window in close proximity, as the Subject was able to grab it quickly.

According to Witness C, there were approximately 40 people where she was standing, including police and fire personnel. Witness C described the Subject firing the first shot toward the front of the building, with the pistol slightly above his shoulder level. Witness C described the second shot as being pointed down toward the entrance of the building where the firefighters were located. After the gunshots, Witness C stated that she ran from the area. During her interview with Force Investigation Division (FID) investigators, Witness C initially stated that the Subject shot to his left; then later during the interview she stated that he fired to the right.

Witness C stated that she was really scared and shaking, and she could not believe that she was there and that this was real. Witness C stated that she was afraid that she or anybody present could have died from the Subject shooting out the window.

After the OIS, Sergeant E responded to Officers' EE and FF's location. Sergeant E began the separation process and took Public Safety Statements (PSSs) from Officers EE and FF.

At 1235 hours, the Department Operations Center (DOC) was notified of the Categorical Use of Force (CUOF).

### **BWV and Digital In-Care Video (DICV) Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Commander A	N/A	N/A	N/A	N/A	N/A
Lieutenant B	N/A <sup>1</sup>	N/A	N/A	N/A	N/A
Sergeant A	Yes	Yes	Yes	N/A	N/A <sup>2</sup>
Sergeant D	Yes	Yes	Yes	N/A	N/A
Officer K	Yes	Yes	Yes	N/A	N/A
Officer P	Yes	Yes	Yes	N/A	N/A
Officer EE	Yes	Yes	Yes	N/A	N/A
Officer FF	Yes	Yes	N/A	N/A	N/A

<sup>1</sup> Lieutenant B was at the Command Post and did not activate his BWV during this incident.

<sup>2</sup> Sergeant A responded Code Two (i.e., urgent, but not life threatening, without vehicle emergency lights and siren activated) and did not manually activate his DICV.



## **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each CUOF 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 the tactics of Officers K & P, Sergeants A & D, Lieutenant B, and Commander A to warrant a finding of Tactical Debrief. The BOPC found the tactics of Officers EE and FF to warrant a finding of Administrative Disapproval.

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

The BOPC found Officers EE and FF's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officers EE and FF'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.

**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 Officers 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 Officers 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 Officers 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 Officers 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 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 and Assessment** – Before the Subject pointed the pistol at police and fire personnel, Sergeant A considered tactically disengaging, as a crime had not occurred. After the Subject pointed the pistol, Sergeant A redeployed his/her officers, contained the scene, and evacuated parts of the building. Sergeant D would later assess what apartments on the fourth and sixth floors needed to be evacuated. Recognizing that the Subject may be suffering from a mental illness, Sergeant A requested the Mental Evaluation Unit (MEU). After speaking with Lieutenant A and Captain A, Lieutenant B determined the criteria for a barricaded Subject had been met.

After SWAT resources arrived at the scene, Officer K and Sergeant D assessed the situation and developed the plan/tactics used throughout the incident. Part of the tactical plan involved deploying Officers EE and FF as snipers. Assessing the scene, Officers EE and FF determined that their best available position was on the seventh floor of an adjacent building; their position afforded them a view of the window to Witness A's apartment. Officers EE and FF set up their position and deployed their sniper rifles. According to Officer FF, he/she and Officer EE took turns, relieving each other to rest their eyes. When Officer EE recognized the incident was escalating, they both used their rifle scopes to watch the window.

As the incident progressed, SWAT personnel determined that the CNT had reached an impasse with the Subject and developed a plan to use tactical discharges (TDs) to de-escalate. When the TDs failed to elicit the Subject's surrender, it was determined that gas would be used to de-escalate the situation; however, the Subject still refused to surrender. Observing the Subject discharge, raise, and then lower his pistol, Officers EE and FF assessed that he posed an imminent deadly threat.

The BOPC noted that the Use of Force Review Board (UOFRB) noted that when Officers A and B arrived at the scene, LAFD personnel requested their assistance with convincing the Subject to exit the apartment. Per LAFD personnel, they could not leave the scene without treating the Subject. The UOFRB commended Officers A and B's decision to contact the Subject from the hallway, for recognizing that at that point it was not prudent to forcefully remove the Subject from the apartment, and for considering tactical disengagement. The UOFRB also commended Sergeant A's decision to not enter the apartment and for considering tactical disengagement as an option to remaining at the scene.

**Time and Redeployment/Containment** – As officers attempted to gain the Subject's compliance to assist LAFD, they remained outside of the apartment, using the door frame as cover and maintaining distance. When the Subject pointed his pistol toward police and fire personnel, they redeployed away from the doorway. To avoid crossfire and to put himself/herself in a safer position if the Subject were to exit the apartment, Officer B redeployed to the west side of the door. To contain the Subject, Sergeant A pulled everybody back and placed them down the hall. LAFD personnel evacuated the area via a fire escape. Sergeant A had Officer H stage

west of the apartment's front door with a ballistic shield. Sergeant A also tasked responding officers with evacuating portions of the building and monitoring a staircase near Witness A's apartment to prevent civilians from entering the fifth floor. When SWAT arrived, Officer K contained the scene by placing officers on the fourth and fifth floors. Officer K also used an area denial bag near the fifth-floor fire escape to prevent the Subject from using it as an avenue of escape. To maintain their distance, SWAT officers used a recon robot, a Long-Range Acoustical Device (LRAD), and the Subject's cellular phone number to communicate with him.

**Other Resources** – Sergeant A and several officers had arrived at the scene before the Subject pointed the pistol at police and fire personnel. After the Subject pointed the pistol, Sergeant A requested backup units for “a man with a gun.” Sergeant A also requested that personnel from MEU respond to the location, which MEU ultimately did.

After speaking with Sergeant A, Lieutenant A responded to the scene and subsequently contacted SWAT personnel. Captain A also responded to the scene. After speaking with Lieutenant A and Captain A. Lieutenant B deployed SWAT resources to the scene, including, but not limited to, CNT and Behavior Science Services (BSS) personnel. Other resources used by SWAT personnel to de-escalate the incident included an area denial bag, ballistic bunker shields, a recon robot, an LRAD, a cellular phone, TDs, and gas. All were ineffective. Between each tactical discharge (TD) and gas deployment, Officer K used the CNT to gain the Subject's compliance; however, he refused to surrender.

**Lines of Communication** – Arriving at the scene, Officers A and B were advised by paramedics that the Subject had ingested methamphetamine, was belligerent, and was in an altered state. LAFD advised they could not leave without treating the Subject and requested the officers' assistance so they could sedate and transport him. Before the Subject pointed his pistol at police and fire personnel, Officers A and B attempted to communicate with him, but he refused to exit the apartment. According to Sergeant A, after the Subject pointed his pistol, officers remained in the hallway and attempted to convince him to exit the apartment unarmed; however, the Subject “just kept rambling” and officers could not understand what he was saying. Sergeant A stated it seemed that the more officers tried to communicate with the Subject, the more agitated he became. Sergeant A advised Lieutenant A of his/her perception.

After SWAT resources arrived, Officer K and Sergeant D coordinated communications with the Subject. Officers attempted to communicate with the Subject using the LRAD, recon robot's speaker, and Subject's cellular telephone number. During negotiations, Officer AA introduced himself/herself to the Subject. According to Officer AA, using his/her first name creates more of a personal effect and emphasizes the Subject's safety while trying to communicate. Officer AA told the Subject that Witness A was concerned for him and that he/she knew the Subject did not want to damage Witness A's apartment. Officer AA also told the Subject that



the situation could all have been a misunderstanding and reassured him that no one had been hurt. Officer AA also tried to appeal to the Subject's feelings toward his dog, who was also in the apartment. As Officer AA was on the LRAD, Officer M attempted to call and text Subject's cellular telephone phone number. All their attempts were ineffective.

After reaching an impasse with the Subject, Sergeant D communicated the tactical plan with Lieutenant B, receiving authorization to use TDs and gas; however, the Subject refused to exit his apartment or surrender. Before the TD and gas deployments, Officer AA warned the Subject that SWAT officers may have to use tactics that might injure him and he needed to surrender, but the Subject refused to comply. Throughout most of SWAT's involvement in this incident, specifically the TD and gas deployment, Officer EE communicated his/her observations to Officer K. Officer EE also broadcast his/her observations when the Subject appeared at the window. The Subject's subsequent actions limited the officers' ability to de-escalate the situation.

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

#### **Debriefing Point No. 1: Required Equipment – Body Armor**

Arriving at the scene, Officer FF donned his/her body armor. While establishing his/her sniper position on the seventh floor of the adjacent apartment building, Officer FF removed his/her body armor. Officer FF believed that he/she was in a position that limited his/her exposure to any threat the Subject posed. According to Officer FF, he/she had performed sniper training without the vest and felt more comfortable taking a "precision shot" with it off.

The BOPC noted that the UOFRB assessed Officer FF's decision to remove his/her body armor. The UOFRB discussed the Department's expectation that sworn personnel assigned to field duties wear body armor. During the UOFRB, a Department sniper Subject Matter Expert (SME) testified that while officers do train without wearing the vest, the expectation is that they wear the vest, void of an exigent circumstance. The SME also testified that SWAT snipers are issued multiple ballistic vests to accommodate various situations. While the UOFRB Majority noted Officer FF's training and understood the importance of precision shooting, based on their review of this incident, the UOFRB Majority did not believe there was an exigent circumstance that precluded Officer FF from wearing his/her body armor. The UOFRB Majority also noted that Officer EE was able to take a precision shot while wearing his/her body armor. As such, the UOFRB Majority would have preferred that Officer FF had worn his/her body armor. Therefore, the UOFRB Majority determined that Officer FF's decision to remove his/her body armor was a substantial deviation, without justification, from Department-approved tactical training.

The UOFRB Minority assessed Officer FF's rationale for removing his/her body armor and disagreed with the UOFRB Majority's opinion. In reaching their opinion,

the UOFRB Minority noted that Officer FF had trained without wearing his/her body armor and that the affixed equipment can inhibit a proper shouldering and cheek weld of the rifle. The UOFRB Minority considered Officer FF's function as a sniper and his/her position in the adjacent building, approximately 26 yards away, two floors up, and secreted inside a room. Based on the available evidence, the UOFRB Minority opined that there was no indication the Subject was aware of FF's location. The UOFRB Minority also noted that according to Officer FF, the room was hot and that the discomfort of wearing the body armor could hamper his/her ability to accurately shoot. As such, the UOFRB Minority opined that Officer FF's decision to remove his/her body armor was a substantial deviation, with justification, from approved Department tactical training.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer FF were a substantial deviation, without justification, from Department-approved tactical training; and the BOPC adopted the Chief's finding.

### **Debriefing Point No. 2: Basic Firearms Safety Rule**

While setting up their sniper position, Officer EE crossed in front of Officer FF's rifle several times. According to the officers, as this occurred, Officer EE either said that he/she was crossing, which prompted Officer FF to come off his/her rifle, or Officer FF would recognize that Officer EE was crossing and he would come off his/her rifle.

The BOPC noted that the UOFRB assessed Officers EE and FF's adherence to the basic firearm safety rules. The UOFRB noted that in their haste to set up their position, both Officers EE and FF appeared to lose sight of the rules resulting in Officer FF's muzzle covering Officer EE. The UOFRB considered Officer FF's statements that he/she would come off the rifle when Officer EE would cross in front of him/her. However, based on the BWV footage, Officer FF appeared to remain on his/her scope, and it was unclear whether he/she raised the rifle's bolt, disabling its ability to discharge a round. The UOFRB opined that although Officer EE told officer FF that he/she was crossing, he/she still caused Officer FF's rifle to cover something Officer FF did not intend to shoot. Instead, the UOFRB would have preferred that the officers had devised a plan to safely establish their position.

The UOFRB two additional instances where Officer EE's rifle may have covered Officer FF. The first occurred when Officer FF approached the left side of the window in their position and looked outside. Officer EE's rifle was positioned near the left side of the widow. The second occurred as Officer FF was attaching a screen to the left side of the same window. The UOFRB opined these instances may have been additional violations of the safety rules.

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

### **Debriefing Point No. 3: Tactical Planning**

Officers EE and FF set up their positions and deployed their sniper rifles. According to Officer FF, he/she and Officer EE took turns, relieving each other to rest their eyes; however, as the incident progressed, it appeared there was confusion as to who was the designated cover officer (DCO) and who was the observer. When Officer EE recognized that the incident was escalating, they both used their rifle scopes to watch the window. Observing the Subject discharge, raise, and then lower his pistol, Officers EE and FF assessed that he posed an imminent deadly threat and they discharged their rifles.

The BOPC noted that the UOFRB assessed the tactics employed by Officers EE and FF. Based on their review, the UOFRB opined that there seemed to be confusion as to who was the DCO and who was the observer. The UOFRB belief was based in part on BWV footage which depicted Officer FF grasping his/her handheld radio multiple times, ostensibly to broadcast, while Officer EE was functioning as the communications officer. The UOFRB belief was also based in part on the simultaneous discharge of the officers' rifles.

The UOFRB would have preferred that Officers EE and FF had clearly established roles while setting up their "hide." As the incident was static, the UOFRB opined they had time to designate roles. The UOFRB would have also preferred that the roles had been clearly designated when they recognized that the incident was escalating. The UOFRB opined that clearly designating roles may have prevented the simultaneous discharge of their rifles.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers EE and FF 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**

- **Incident Commander Declaration** – Sergeant A was the first supervisor on the scene at the onset of the incident. Although Sergeant A functioned as the IC, he/she did not declare himself/herself as the IC.
- **Ballistic Helmet** – While conducting negotiations with the Subject near the apartment's front door, Officer M was not wearing his/her ballistic helmet. At the time, other officers were behind a bunker shield in full tactical gear. Alternatively, Officer M should have donned his/her ballistic helmet.

While functioning as a sniper, Officer FF removed his/her ballistic helmet. At the time, Officer FF was in an adjacent building in a "hide." Alternatively, Officer FF

should have left his/her ballistic helmet on as it contained his/her communications equipment.

- **Situational Awareness** – Before deploying Ferret rounds into Witness A's apartment, Officer P placed his/her rifle in the stairwell and transitioned to the 40mm LLL. Officer P then placed the 40mm LLL in the stairwell and deployed the baffled smoke/gas and OC vapor canisters. Officer P then retrieved his/her rifle, leaving the 40mm LLL in the stairwell. An unidentified citizen subsequently walked up the stairs before being advised to return to his apartment. Alternatively, the equipment could have been monitored by another officer or placed in a different location.

Approximately 43 to 45 seconds after the OIS, Officers EE and FF chambered live rounds into their rifles. Alternatively, Officers EE and FF could have immediately chambered live rounds, to be prepared if an additional deadly threat presented itself.

- **Required Equipment (Taser)** – During this incident, Officer EE was not equipped with his/her Taser. Due to the amount of equipment snipers carry, it is not always practical for them to carry all less-lethal options.

## **Command and Control**

Sergeant A was the on-scene supervisor when this incident started. Sergeant A assumed command, redeployed his/her officers, designated roles, and contained the scene. Sergeant A initiated the preliminary evacuations of neighboring units and requested additional resources, including, but not limited, to a ballistic shield and MEU. Sergeant A contacted his watch commander, Lieutenant A, and apprised him/her of the situation. Although Sergeant A did not broadcast that he/she was the IC, the UOFRB noted there was no confusion as to whether he/she was the IC.

After speaking with Sergeant A, Lieutenant A responded to the scene, established a CP, and assumed the role of IC. At approximately 0930 hours, Lieutenant A contacted Lieutenant B. According to Lieutenant B, he/she was advised that the Subject had produced a pistol and pointed it at police and fire personnel. In response, Lieutenant B requested that Lieutenant A ensure that the officers and firefighters were interviewed, and that the appropriate crime reports were completed. Lieutenant B also requested that Lieutenant A have BWV footage reviewed to verify that the crime of Assault with a Deadly Weapon (ADW) had occurred.

At 0930 hours, Captain A arrived at the CP. While responding to the scene, he/she spoke with Lieutenant B regarding a possible barricaded Subject. During their conversation, Lieutenant B advised him/her to obtain a search warrant for Witness A's apartment. Arriving at the scene, Captain A assumed the role of IC, coordinated with Lieutenant A, and ensured that the requested search warrant and crime reports were completed. During a subsequent conversation with Captain A, Lieutenant B advised him/her that the incident met the criteria for SWAT's response.

At 1022 hours, Commander A arrived on the scene, assumed the role of IC from Captain A, and subsequently approved the TDs and the gas plan.

As SWAT personnel arrived, Officer K assisted Sergeant D by formulating and coordinating the tactics of the incident. Officer K established less-lethal roles and containment, deployed snipers, coordinated the gas plan, evacuated neighboring residents, formed an arrest team, and developed a plan with LAFD in the event of a fire. Officer K communicated the tactical plan to Sergeant D, who then relayed the plan to the IC for approval.

After the OIS, Sergeant E obtained Officers EE and FF's Public Safety Statements (PSSs) and ensured that the officers were properly monitored.

The BOPC determined that the overall actions of Commander A, Lieutenant B, Sergeants A & D, and Officer K were consistent with Department training and expectations during a critical incident.

### **Tactical Debrief**

- In conducting an objective assessment of this incident, the BOPC found that the actions of Commander A, Lieutenant B, Sergeants A and D, and Officers K and P did not deviate from Department-approved tactical training. The BOPC found that Officers EE and FF's actions were a substantial deviation, without justification, 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.

### **Drawing/Exhibiting**

#### **Officers EE and FF**

Officers EE and FF responded to an incident involving a barricaded Subject who was armed with a pistol he pointed at police and fire personnel. Arriving at the scene, Officers EE and FF were designated as snipers. In response, the officers established sniper positions in an adjacent building, which afforded them a view of the Subject's position, and they deployed their rifles.

The BOPC noted that the UOFRB assessed Officers EE and FF's drawing and exhibiting of their sniper rifles. The UOFRB noted the Subject's actions before Officers EE and FF arrived at the scene. The UOFRB also noted that as snipers, the expectation was that they would have their rifles deployed in a manner that would allow them to take immediate action if confronted with an imminent deadly

threat. Based on the totality of the circumstances, the UOFRB opined that it was appropriate for Officers EE and FF to exhibit their sniper rifles.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers EE and FF 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 EE and FF's drawing/exhibiting to be In-Policy.

## **Lethal Use of Force**

**Officers EE and FF** – .308 caliber bolt action rifles, one round each from approximately 25 to 26 yards.

**Background** – According to Officers EE and FF, their background was the floor in Witness A's apartment. According to Officer EE, he/she believed that the floor was concrete and that his/her round would not penetrate it.

According to Officer FF, he/she observed the Subject exit the window with a pistol and fire a round in a northeasterly direction toward the intersection. In response, Officer FF "got on" his/her scope; the Subject still had the pistol in his hand. Officer FF knew that there were police officers and innocent bystanders in the area and believed that the Subject posed a deadly threat to them. To prevent the Subject from continuing to shoot indiscriminately at the community, Officer FF discharged one round from his/her rifle at the Subject.

According to Officer EE, he/she observed the Subject emerge from the window holding an object that he/she soon realized was a pistol. The Subject then fired a shot in a north/northeasterly direction at a slightly downward angle. Officer EE did not know if the Subject was aiming at anything specific but opined that he may have shot at the street below. Having been on the street, Officer EE knew that there were officers conducting traffic control and pedestrians on both sides of the intersection. From his/her position, Officer EE observed numerous people looking out of their windows. Officer EE also knew that the apartment building they were in had only two unoccupied units on the seventh floor and their building had not been evacuated. Officer EE realized that he/she had to use deadly force to stop the Subject's actions and prevent someone from being injured or killed. In response, Officer EE discharged one round from his/her rifle at the Subject.

The BOPC noted that the UOFRB assessed Officers EE and FF's lethal use of force. The UOFRB noted that both officers observed the Subject produce a pistol and fire a round. Officer EE opined that the Subject may have shot at the street below. Officer FF believed that the Subject fired toward the intersection. Both officers felt that the Subject posed a deadly threat to police officers and citizens they had seen in the area. To prevent the Subject from shooting and seriously injuring or killing someone, both officers simultaneously discharged one round from their rifles.

Based on the Subject's actions, the UOFRB opined that Officers EE and FF reasonably believed that he posed an imminent deadly threat.

In terms of the simultaneous discharge, the UOFRB opined that when the OIS occurred, there was confusion as to who was the DCO. Based on the confusion, the UOFRB opined that it was reasonable for both officers to have simultaneously discharged their rifles to address what they both perceived as an imminent deadly threat. While the UOFRB would have preferred that Officers EE and FF had clearly designated a DCO, based on the totality of the circumstances, the UOFRB opined their lethal use of force was proportional, objectively reasonable, and necessary.

Regarding Officers EE and FF's background, the UOFRB noted that both officers believed that it was the floor in Witness A 's apartment. The UOFRB also noted the age and design of the building and opined that the rounds would not have penetrated the floor. The UOFRB further noted that the unit below Witness A's apartment had been evacuated.

Based on the totality of the circumstances, BOPC determined that an officer with similar training and experience as Officers EE and FF, in the same situation, would reasonably believe that lethal use of force was proportional, objectively reasonable, and necessary. Therefore, the BOPC found Officers EE and FF's lethal use of force to be In Policy.