

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

LAW ENFORCEMENT-RELATED INJURY 015-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Foothill	5/10/22		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	15 years, 5 months
Officer C	25 years, 6 months
Officer G	14 years, 1 month
Officer H	6 years, 2 months
Officer J	30 years, 6 months

Reason for Police Contact

Officers responded to a “Citizen Following a Burglary Suspect” radio call. An air unit observed the Subject flee into a nearby quarry. The officers established containment and, with the assistance of Metropolitan Division K-9 (canine) officers, located the Subject on a hillside within the quarry. While attempting to detain the Subject, he threw multiple rocks at the officers, resulting in the discharge of less-lethal munitions.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject, Male, 47 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 21, 2023.

Incident Summary

On May 9, 2022, one day prior to this incident, the Subject was seen on security video walking back and forth outside a local recycling center. Moments later, the Subject was seen inside the enclosed driveway before he climbed over an interior fence and onto the main area of the property. After receiving an alert from his alarm system, Victim A, the owner of the recycling center, called 911 to report the incident. Officers responded to the call and searched the premises for the Subject, but he was not found. The officers completed an Investigative Report for Burglary after Victim A determined that several catalytic converters had been stolen.

On May 10, 2022, at approximately 0830 hours, while showing an employee the location where the catalytic converters had been stolen the day prior, Victim A discovered the Subject inside a shed. In response, Victim A and his employee exited the shed and called 911. While Victim A was on the phone with Communications Division (CD), the Subject exited the shed and approached him. The Subject removed a knife from his front waistband, brandished it, and threatened to cut Victim A. In fear, Victim A backed up and directed several of his employees to back away as well. The Subject ultimately fled the location on foot, as Victim A followed from a distance and provided updates to CD.

In response to Victim A's call, CD broadcast a "Citizen Following a Burglary Suspect" radio call over the Foothill Area base radio frequency.

Officers A and B responded to the call and, as they arrived at scene, Victim A flagged them down and provided a description of the Subject and his last known direction of travel. Upon receiving this information, Officer A recalled seeing an individual matching the Subject's description while en route to the call. Officers A and B drove back to the area where they had potentially seen the Subject. While in the area, they met with Victim A's brother, who advised them that the Subject had jumped a fence and ran west through a nearby flood control channel. Officer A broadcast the updated information to responding units and requested an air unit to check the surrounding area.

Several minutes later, an air unit arrived overhead and located the Subject running south along the flood control channel and toward a nearby quarry. The air unit broadcast the Subject's location and continued monitoring him as he climbed over a fence and entered the quarry. While monitoring the Subject, the air unit observed him slide down a steep hillside and secrete himself in thick brush.

Upon arriving at scene, Sergeant A declared him/herself Incident Commander (IC) and initially established a Command Post (CP). After gaining access into the quarry, Sergeant A relocated the CP to an open lot on the northeast side of the quarry. While at the CP, Sergeant A coordinated with the air unit and contacted Metropolitan Division to request resources from K-9 Platoon. Sergeant A also requested a Rescue Ambulance (RA) along with the Los Angeles Fire Department's (LAFD) Urban Search and Rescue team (USAR). According to Sergeant A, after receiving information that the

Subject had fallen within the quarry, he/she requested the LAFD and USAR Team to stage resources if a rescue became necessary.

Once containment was established around the quarry, a K-9 search team was assembled. The search team consisted of Officers C, D, E, F, G, H, and I. According to Officer C, the Subject's last known location was on the northern hillside between the main access road and the first plateau of the quarry. In response, Officer C formulated a plan to position uniform officers along the top of the quarry, while the search team repositioned to the southwest side of the quarry and hiked down to the area the Subject was believed to be hiding. The search team would then search northeast along the hillside to locate the Subject.

According to Officer E, K-9 officers discussed their respective roles as it related to their search plan and were cognizant that their roles could change as the incident unfolded.

In addition to each K-9 officer being equipped with a less-lethal option, Officer H was equipped with a 40 millimeter Less-Lethal Launcher (40mm LLL) and was designated as the less-lethal cover officer. Additionally, though each K-9 officer was equipped with less-lethal options, Officer H, who was equipped with 40mm LLL, was designated as less-lethal. Additionally, Officer E was equipped with a Gas Kit if it later became necessary to deploy chemical munitions.

The search team drove approximately three-quarters of a mile along the main access road from the CP to the southwest area of the quarry where they staged. According to Officer C, the search team hiked approximately half a mile from the staging area to the general vicinity where the Subject was believed to be hiding. Once there, they were guided by the air unit to the area where the Subject was last seen. Officer C then directed the K-9 to begin searching the area while the air unit used the Forward Looking Infrared (FLIR) system to search for the Subject from the air. The air unit identified a heat source within the brush, approximately 10 feet north of where the K-9 was searching. The air unit broadcast this information to the search team, who then paused to assess.

According to Officer C, the long hike, steep terrain, and excessive heat caused the K-9 to become fatigued. As such, the K-9 could not effectively search the area where the air unit identified the heat source. Officer C notified the CP of the K-9's status and requested approval to tactically discharge a 40mm LLL sponge round into the general vicinity where the air unit had identified the heat source.

After receiving approval from Sergeant A, Officer H tactically discharged a 40mm LLL sponge round into a dirt patch approximately 10 feet above the location of the heat source. The tactical discharge did not generate a response from the Subject. As a result, Officer C requested approval to deploy Oleoresin Capsicum (OC) munitions in the same area. After receiving approval from Sergeant A, Officers D and E each deployed a single canister of OC powder into the brush where they believed the Subject was hiding.

Moments later, Officer E deployed an additional canister of OC powder; however, they did not generate a response from the Subject.

After receiving no response, Officer C directed the K-9 to search the area about a minute later. The K-9 subsequently entered the bushes approximately 15 to 20 feet north of Officer C, which caused the Subject to stand up and move in a northeast direction farther up the hillside.

As the Subject moved up the hillside, the search team fanned out in an east-west configuration and moved uphill to establish containment and keep him in sight. As they did so, the air unit utilized its public address (PA) system and ordered the Subject to surrender.

Approximately seven minutes after the Subject fled uphill, the air unit alerted the search team that the Subject was approximately 30 feet northeast of their location and arming himself with large rocks. Officer E moved to a position northeast of Officers C, D, and H and observed the Subject throwing rocks in his direction. According to Officer E, one of the rocks struck him/her in the right shoulder. In response, Officer E directed Officer H to fire his 40mm LLL at the Subject.

Over the next 31 minutes, the Subject threw multiple rocks at the officers as he traversed the hillside. In response, Officers G, H, and J discharged a total of nine 40mm LLL sponge rounds. Each round is summarized below in the order of occurrence.

Prior to Officer H discharging the first 40mm LLL round, footage from Body-Worn Video (BWV) shows an object traveling through the air toward Officer I, who was northeast of Officer H. In response, Officer H targeted the Subject's right shoulder and discharged one 40mm LLL round from approximately 50 feet. According to Officer H, the round did not have an effect and may have struck the dirt based upon the sound of the impact. Officer H indicated he/she did not have a clear sight picture of the Subject's navel area or belt line, so he/she aimed at the Subject's right shoulder.

As Officer H reloaded his 40mm LLL, the Subject continued to throw rocks at officers on the search team. According to Officer H, he/she observed the Subject turn in a manner that caused him/her to believe the Subject was arming himself with another rock. In response, Officer H targeted the right side of the Subject's lower back at the belt line and discharged an additional 40mm LL round from approximately 50 feet. Footage from Officer E's BWV camera showed that the Subject stopped and appeared to come down on one knee immediately after Officer H discharged his/her round.

After Officer H discharged his/her second round, he/she advised officers nearby that he/she was out of 40mm LLL rounds. Officer C advised the CP the search team had run out of 40mm LLL rounds. Additionally, Officer E requested the 40mm Less-Lethal Multi-Launcher (LLML) and additional 40mm rounds. In response, Officer J obtained the requested equipment and began hiking down to the search team. During this time,

the search team redeployed to the first plateau below the Subject, as he maintained his position north of the officers.

Approximately five minutes after Officer H discharged his/her second 40mm LLL round, the Subject resumed throwing rocks at the search team. In response, officers ordered the Subject to stop throwing rocks.

Approximately 22 minutes after Officer H discharged his/her second round, Officer J arrived with additional 40mm rounds and a 40mm LLML. Officer J targeted the Subject's abdomen and discharged a 40mm round from an approximate distance of 75 to 90 feet away.

After discharging his/her first round, Officers J experienced difficulty cycling the action of the 40mm LLML. Officer J examined the 40mm LLML and determined the drum had prematurely spun out of battery. Officer G, who was standing nearby, believed that the 40mm LLML had malfunctioned. In response, Officer G obtained Officer H's 40mm LLL and loaded it with the additional rounds obtained by Officer J.

After Officer J discharged his/her first round, the Subject moved west and continued to throw rocks at the officers. During that time, footage from Officer D's BWV captured the Subject stand up and throw a rock toward Officers D and J. The Subject then ducked behind a bush and stood back up again several seconds later. As he did so, Officer J discharged a second 40mm LLL round.

According to Officer J, he/she discharged this round in response to the Subject throwing rocks at members of the search team. Officer J targeted the Subject's abdominal area and discharged his/her second round from approximately 75 to 90 feet.

According to Officer G, he/she and Officer F were standing west of Officer J when he/she observed the Subject with a rock in his right hand and his arm extended back as if he were about to throw it. In response, Officer G targeted the Subject's abdominal area and discharged his/her first 40mm LLL round from approximately 30 to 40 feet.

According to Officer J, the Subject continued throwing rocks as he moved along the hillside. During this time, Officer J targeted the Subject's legs and discharged two additional 40mm LLL rounds at the Subject from approximately 75 to 90 feet.

After Officer J discharged his/her third and fourth LLL rounds, the Subject concealed himself within the brush for approximately five minutes. During this time, Officer D directed Officers G and J to redeploy outward to conceal their positions, while Officer D remained visible to draw the Subject's attention. Approximately 30 seconds later, the Subject reappeared and began moving in a northwest direction along the hillside. Officer D advised Officers G and J that the Subject was moving.

According to Officer G, the Subject moved west with a rock in his hand. Based on the Subject's prior actions throughout the incident, Officer G believed the Subject would

throw the rock at members of the search team. In response, Officer G targeted the left side of the Subject's abdomen and discharged his/her second round from approximately 40 to 50 feet.

Officer J believed that the Subject was arming himself, not surrendering, and still trying to escape, which caused him/her to feel threatened. In response, Officer J targeted the Subject's legs and discharged his/her fifth and final 40 LLL round from approximately 75 to 90 feet.

Approximately 15 minutes later, Metropolitan Division's Climbing Cadre members rappelled down to the Subject from the access road.

The plan was for the Climbing Cadre to partner up and rappel along each side of the Subject, to contain the Subject as they worked their way toward him.

With the assistance of the air unit, the Climbing Cadre eventually located the Subject and persuaded him to climb up to their location. The Subject was taken into custody a short time later.

The Subject was assessed for injuries. He had a contusion along the side of his jaw and blood coming from his mouth, but he did not appear to be in medical distress. It was determined that the Subject would not be able to climb out, and the officers coordinated a rescue by utilizing LAFD's USAR team.

While awaiting LAFD's USAR team to rappel down to their location, Officer J asked the Subject if he was injured. The Subject indicated he had injuries to his jaw, ribs, and ankle.

Approximately 50 minutes later, the LAFD's USAR team rappelled down and placed the Subject into a rescue basket. Once secured, the Subject was carried to the top of the main access road, where he was transferred into an RA and transported to a hospital, where he was later admitted for a fractured jaw.

Force Investigation Division (FID) investigators reviewed all documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident prior to being interviewed by FID investigators.

Los Angeles Board of Police Commissioners' (BOPC) Findings

The BOPC reviews each Categorical Use of Force (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 C, G, H, J and Sergeant A to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers C, G, and H's drawing and exhibiting of a firearm to be In Policy.

C. Less-Lethal Use of Force

The BOPC found Officers G, H, and J's less-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 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, 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/her or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning and Assessment – Sergeant B and K-9 personnel responded to the CP and were briefed by Sergeant A. During the incident, Sergeants A, B, and Officer C discussed plans for the search. The first plan called for the search team to work down from the top of the quarry to avoid giving the Subject the high-ground advantage, but it was determined that the terrain was too steep and unstable. Instead, it was decided that officers would maintain a wide perimeter with personnel in key locations. As part of the plan, Officer C, the K-9, four additional K-9 officers, and two patrol officers walked into the quarry to locate the Subject. Officer C assigned roles to each officer on the search team.

During the search, the use of a TD (Tactical Discharge) to de-escalate the situation and encourage the Subject to surrender was approved. When the TD was unsuccessful, Officer C obtained approval to deploy OC gas. When the OC gas failed to elicit a response from the Subject, Officer C formed a plan to deploy the K-9 to locate the Subject.

As the incident progressed, Sergeant B contacted Lieutenant A who assessed the situation and determined that SWAT's Climbing Cadre was the appropriate resource for this incident and to assist with apprehending the Subject. When the Subject appeared to give up, officers formulated a plan to safely apprehend and extract him from the quarry.

Time and Redeployment/Containment – After the air unit advised that the Subject had entered the quarry, Sergeant A advised the officers not to follow him and to establish containment. This allowed the officers time to formulate a plan and obtain additional resources. Once the Subject began throwing rocks, officers on the search team continually redeployed to avoid being struck. When the Subject concealed himself in the brush, Officer D directed Officers G and J to redeploy to conceal their positions, while he/she remained visible to draw the Subject's attention.

When the Climbing Cadre repelled into the quarry - after the Subject had stopped throwing rocks - Officers E, H, I, and J continued to climb up the terrain to contain the Subject and apprehend him.

The BOPC considered that the Use of Force Review Board (UOFRB) noted that this incident occurred over a period of nearly six hours and the officers moved at a controlled pace to reduce the intensity of this encounter and mitigate the need to use a higher level of force.

Other Resources – Responding to the initial radio call, Officer A requested an air unit. Arriving at the scene, the air unit assisted in containing the quarry, finding an appropriate path for the search team, and locating the Subject. After establishing a CP, Sergeant A requested an RA and LAFD's USAR. Sergeant A also requested a Metropolitan Division K-9 and handler. To convince the Subject to surrender, officers used a TD and OC gas. After the TD and OC gas failed to elicit a response from the Subject, Officer C deployed the K-9, which located the Subject. In

response, Officer C recalled the K-9 and the Subject moved up the hillside. When the Subject began throwing rocks at the officers, 40 LLL sponge rounds were used to de-escalate the situation by stopping the Subject's actions without resorting to higher levels of force. After the Subject stopped throwing rocks and appeared to give up, SWAT's Climbing Cadre helped apprehend the Subject without further incident.

Lines of Communication – Throughout the incident, Sergeant A communicated with Sergeant B and Lieutenant A. Sergeant B also communicated with Lieutenant A and provided updates on the incident. During the incident, Officer C communicated with Sergeants A and B, updating them on the status of the search and obtaining approval for the TD and OC gas deployment. As the incident was unfolding, Officer C also communicated with the search team members. When the Subject ran up the hillside after being located by the K-9, Officer C told the search team not to use less-lethal munitions at that point. When the Subject began to throw rocks, Officer C advised Officer H, "Get that 40 up again." After Officer H advised he/she had exhausted his/40mm LLL sponge rounds, Officer C contacted the CP to obtain additional sponge rounds.

While the Subject was throwing rocks, Officer D communicated with the search team by yelling, "Rock! Rock! Rock!" To provide direction and ensure officers worked as a team, Officers D and J communicated with each other throughout the incident.

Throughout the incident, officers continually communicated with the Subject, attempting to obtain his surrender, providing less-lethal warnings, and ordering him to stop throwing rocks. Communication with the Subject was seemingly ineffective as he tried to flee up and across the hillside, stated he had rocks for days, and continued to throw the rocks at the officers. After he appeared to surrender, the officers were able to contact him, open a dialogue, and safely apprehend him.

The BOPC noted that the UOFRB commended the officers and their ability to resolve this incident, despite the unusual terrain/geography. The UOFRB opined that Officer C and Sergeant A assessed and effectively planned how to deal with a complicated situation. The UOFRB noted Officer C's ability to use active leadership when directing officers on the search team and communicating with the CP. The UOFRB also noted that while it appeared the Designated Cover Officers (DCOs) were not clearly identified during the 40mm LLL deployment, officers maintained situational awareness and would have been prepared to assume the role had the need arose. Additionally, as the Subject was not suspected of being armed with a gun, the UOFRB opined it was reasonable for officers to have their service pistols holstered.

The UOFRB noted that before conducting the TD, the tactic was communicated to the officers at the scene. While the TD and OC gas failed to elicit a response from the Subject, there were many efforts to de-escalate this situation. Despite the officers' best efforts, the Subject refused to surrender before throwing numerous

rocks. Although it appears that the Subject may have been struck in the face with an 40mm LLL sponge round, the UOFRB noted that it would have been unintentional and that de-escalation efforts prevented the situation from escalating to a higher level of force. The UOFRB did note that before and after the TD, Officers C, D, and G tossed rocks into the area near where the Subject was possibly hiding. This was done to locate the Subject by eliciting a response from him. The UOFRB noted that the rocks were thrown in a manner that was not likely to have caused injury and there was no indication the Subject was struck by any of the rocks. The UOFRB also noted that this tactic has since been discussed by K-9 personnel.

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

40mm LLL Protocols

The FID investigation was unable to determine if the following 40 mm LLL sponge rounds struck the Subject: Officer H's first and second; Officer G's first; and Officer J's first, third, fourth, and fifth. Because Department Manual § 4/245.05 provides that the discharge of a less-lethal weapon that does not contact an individual or their clothing is not a reportable use of force, the above discharges were assessed solely for tactics.

- **Officer H** – According to Officer H, he/she and other officers were in the quarry when they observed the Subject begin to throw rocks at them. Officer H described the rocks as the size of a “grapefruit.” Officer H felt “scared” and was concerned for his/her safety and the safety of the other officers. In response, Officer H targeted the Subject’s right shoulder and discharged one sponge round from the 40mm LLL from approximately 50 feet. He/she believed the round missed the Subject and it sounded like it hit the dirt. According to Officer H, he/she aimed for the Subject’s right shoulder because it was the “best sight picture” that he/she had at the time. Officer H believed that the Subject was attempting to harm officers by continuously throwing rocks.
- **Officer G** – According to Officer G, he/she and Officer F were standing west of Officer J when he/she observed the Subject with a rock in his right hand and his arm extended back, ostensibly preparing to throw the rock. In response, Officer G targeted the Subject’s abdominal area and discharged one round from his/her 40mm LLL from approximately 30 to 40 feet. Officer G believed that his/her sponge round failed to reach the Subject and instead struck a thick bush in front of him (the Subject).
- **Officer J** – According to Officer J, the Subject refused to surrender and continuously threw rocks at the officers that were large enough to have seriously injured them. To prevent the Subject from throwing rocks at officers, Officer J discharged a total of five sponge rounds over approximately 30 minutes; however, four of the rounds appeared to miss the Subject.

The BOPC noted that the UOFRB assessed Officers G, H, and J's use of their less-lethal devices during the above rounds. The UOFRB noted that the officers discharged their sponge rounds in response to the Subject throwing or preparing to throw rocks capable of causing serious bodily injury. Based on the Subject's actions and BWV footage, the UOFRB opined that he posed an immediate threat to the officers' safety. The UOFRB also noted that the officers discharged their sponge rounds from within their devices' effective range and that a UOF warning had been provided to the Subject before the rounds were discharged.

As it pertains to Officer H, the UOFRB noted that while discharging his/her second sponge round, he/she targeted the Subject's right shoulder as it was the "best sight picture" he/she had at that point. The UOFRB also noted that per the Department's 40mm LLL protocols, officers may target the arm when practicable. While not a primary target area, the UOFRB noted that the shoulder is not a prohibited area of the body.

Regarding Officer G, the UOFRB noted that while discharging his/her first sponge round, he/she targeted the Subject's abdomen, a primary area. The UOFRB also noted that he/she believed this round struck a thick bush in front of the Subject and failed to reach him.

As it concerns Officer J, the UOFRB noted that while discharging his/her first sponge round, he/she targeted the Subject's abdomen, a primary area. The UOFRB also noted that while discharging his/her third, fourth, and fifth rounds, Officer J targeted the Subject's legs. Although not a primary target area, per the Department's 40mm LLL protocols, officers may target the legs when practicable. Although not expressly stated in Officer J's interview, the UOFRB opined that he/she targeted the Subject's legs because the primary target areas were obscured by brush. Additionally, while Officer J discharged a total of five sponge rounds, the UOFRB opined the rounds were discharged in direct response to an immediate threat to the officers' safety.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officers G, H, and J did not deviate from Department-approved tactical training.

- The BOPC also considered the following:

40mm LLL Target Areas – The primary target area for the 40mm LLL sponge round is the navel area or beltline. However, officers may target the suspect's arms, hands, or legs when practicable. Per the FID investigation, although it appears that a 40mm LLL round inadvertently hit the left side of the Subject's jaw, Officers G, H, and J were targeting the Subject's abdomen (navel area/beltline), legs, and right shoulder. To enhance future performance, the BOPC directed that this be a topic of discussion during the Tactical Debrief.

Incident Commander Declaration – Sergeant A was the first supervisor to arrive on the scene. Sergeant A assumed the role of the Incident Commander (IC); however, he/she did not declare it over the radio. Although Sergeant A functioned as the IC, the UOFRB would have preferred that he/she broadcast his/her role. This is done to avoid potential confusion. To enhance future performance, the BOPC directed that this be a topic of discussion during the Tactical Debrief.

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

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

In conducting an objective assessment of this case, the BOPC determined that the actions of Officers C, G, H, G, J, and Sergeant A did not deviate from Department-approved tactical training and found their tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- **Officer C** – According to Officer C, he/she initially unholstered his/her service pistol when he/she decided to have the K-9 search for the Subject. The Subject was a felony suspect who was presumed to be armed with a knife. Officer C believed that the situation was inherently dangerous and there was a chance it could escalate to the use of deadly force. Due to the terrain and the need to give his/her K-9 commands, Officer C unholstered his/her service pistol multiple times.
- **Officer H** – According to Officer H, he/she responded to a radio call involving a burglary suspect armed with a knife. During the search for the Subject, Officer H unholstered his/her service pistol. Officer H was searching for what was believed to be an armed burglary suspect that had made criminal threats, and he/she believed that the situation could escalate to the point where deadly force may be justified. Due to his/her assessment that there were “enough guns out,” Officer H only unholstered his/her service pistol once.
- **Officer G** – According to Officer G, he/she unholstered his/her service pistol during the search since the Subject was possibly armed with a knife and the situation could escalate to the point where deadly force may be justified. Due to the terrain, Officer G unholstered his/her service pistol multiple times throughout the search.

Based on the totality of the circumstances the BOPC determined that an officer with

similar training and experience as Officers C, G, and H 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 C, G, and H's drawing/exhibiting to be In Policy.

C. Less-Lethal Use of Force

- **40mm LLL/LLML**

The BOPC noted that, based on the available evidence, the UOFRB determined that the following sponge rounds struck the Subject: Officer H's third, Officer G's second, and Officer J's second. As previously stated, Officer H's first round was a TD and is not being assessed as force.

- **Officer H** – As Officer H reloaded his/her 40mm LLL, the Subject continued to throw rocks at the officers on the search team. Officer H described the rocks as the size of a “grapefruit.” Officer H saw the Subject turn and believed he was arming himself with a rock to throw at the officers. In response, Officer H targeted the right side of the Subject's back, at the belt line, and discharged his/her third sponge round from approximately 50 feet. Footage from Officer E's BWV showed that the Subject stopped and appeared to come down on one knee immediately after Officer H discharged this round. Officer H believed that his/her third round struck the Subject because he/she heard a grunt, saw the Subject duck, and heard an officer confirm that the round struck him.
- **Officer J** – After Officer J discharged his/her first round, the Subject moved west and continued to throw rocks at the officers. During that time, footage from Officer D's BWV captured the Subject stand and throw a rock toward Officers D and J. In response, Officer J targeted the Subject's abdominal area with the 40mm LLML and fired his/her second impact round from approximately 75 to 90 feet. After the round was discharged, the Subject ducked behind a bush and Officer D said, “That got him.” Approximately ten seconds later, Officer J acknowledged, “I just got him.”
- **Officer G** – According to Officer G, the Subject moved west with a rock in his hand. Based on the Subject's actions throughout the incident, Officer G believed that he would throw the rock at officers. In response, Officer G targeted the left side of the Subject's abdomen with the 40mm LLL and fired his/her second sponge round from approximately 40 to 50 feet. According to Officer G, he/she did not know if this round contacted the Subject, but he/she did observe the Subject go down behind some brush after it was discharged.

The BOPC noted that the UOFRB assessed Officers G, H, and J's less-lethal use of force. The UOFRB noted that the officers discharged their sponge rounds in response to the Subject throwing or preparing to throw rocks capable of causing serious bodily injury. Based on the Subject's actions and the BWV footage, the UOFRB opined that he posed an immediate threat to the officers' safety. The UOFRB also noted that the

officers discharged their sponge rounds from within their devices' effective range, a UOF warning had been provided to the Subject before the rounds were discharged, and the officers targeted approved areas of the Subject's body. While Officer H targeted the Subject's back, there was nothing to indicate he/she targeted the Subject's spine. Based on the Subject's actions, the UOFRB opined that the 40mm LLL and LLML were the appropriate less-lethal options, as they allowed the officers to maintain distance and avoided the incident from escalating to higher levels of force.

Additionally, the UOFRB noted that the officers considered the terrain and opined that the Subject would not slide/fall down the hill if struck by a sponge round. The UOFRB did note that the Subject may have been struck on the jaw by a sponge round, an unapproved area of the body; however, the investigation was unable to determine which round, if any, caused this injury.

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