

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

LAW ENFORCEMENT RELATED INJURY – 023-23

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Wilshire	6/2/23		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A /PO III	11 years
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Reason for Police Contact

On June 2, 2023, at approximately 1044 hours, uniformed officers received a radio call of an assault with a deadly weapon (ADW) suspect there now at a medical office. The officers arrived at scene and observed the suspect (Subject) holding a four-foot-long spiked-metal lawn edger in his hands. Officers ordered the Subject to drop the edger; however, the Subject appeared to be suffering from a mental illness and failed to comply. The officers formulated a tactical plan to take the Subject into custody. Throughout the 30-minute interaction with the Subject, officers made several attempts to gain his voluntary compliance. As a Mental Evaluation Unit (MEU) arrived on scene, the Subject walked toward officers while still armed with the edger. The Subject was ultimately struck in the upper-right chest by a single beanbag shotgun round. The Subject fell to the ground and was taken into custody without further incident. Officers escorted the Subject inside the hospital where he was treated for a pulmonary contusion and two rib fractures. The Subject was admitted to the hospital for his injuries. No officers or other citizens were injured during the incident.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 25 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 (Chief); 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 April 23, 2024.

Incident Summary

On June 2, 2023, at approximately 1040 hours, Witness A called 911 to report a homeless man armed with a long stick hitting the glass entry doors and attempting to break into a hospital. At approximately 1042 hours, Witness B called 911 to report a male using a stick with nails in it to attack people. At 1043:42 hours, due to multiple 911 calls, Communications Division (CD) generated a radio call of an “ADW suspect there now.”

Prior to police arrival, the Subject committed numerous crimes against various individuals in the area, some of which were captured by surveillance video. The Department received notification of these incidents after the Law Enforcement-Related Injury (LERI) occurred and Investigative Reports (IRs) were taken to document these crimes.

Officers A and B were assigned to the above-mentioned radio call of an “ADW suspect there now.”

Officer A broadcast their Code Three (i.e., vehicle’s emergency lights and siren activated) response. While driving to the radio call, Officer A retrieved the beanbag shotgun from the center rack of the vehicle and maintained it in a low-ready position with the muzzle pointed at the floorboard of the vehicle. Officer A indicated that he/she retrieved the beanbag shotgun to ensure that he/she had a less-lethal force option ready, so that he/she would not lose sight of the Subject upon his/her arrival at scene .

Officer A then read the comments of the call to his/her partner, which included the Subject description. The comments of the radio call stated that the Subject was a male armed with a stick with nails sticking out threatening to hurt people at the location. The Subject was attempting to break the window. In addition, Officer A requested further information from CD regarding the Subject’s actions and whether there was a victim.

Officer A stated that he/she attempted to obtain more detailed information over the radio but was unable to “because there was a lot of radio chatter.”

Officer A said that he/she and Officer B discussed primary weapons, ammunition contact and cover officers, how each role can change depending on the circumstances of the call, and different use-of-force options. However, while enroute to this call, they did not discuss a plan related to this specific incident.

At approximately 1046 hours, Sergeant A advised CD that he/she was responding to the call. Additionally, at approximately 1047 hours, Air Support Division (ASD) with a Tactical Flight Officer (TFO) arrived in a helicopter unit over the call prior to the arrival of any other units. The air unit advised responding units, “we have eyes on security, it

looks like about five security guards with the Subject... Erratic behavior swinging the metal stick and he's hitting a sign at the entrance of the hospital."

Upon their arrival, Officer A advised the air unit that they were approaching the location westbound and asked for the air unit to direct them to the location of security and the Subject. At 1049:49 hours, Officer A broadcast that they were at scene.

Officer B entered the driveway of the medical center. Officer B stopped the police vehicle in the driveway with the front end pointed at the Subject. Officer A advised his/her partner that he/she believed the Subject was armed with a sledgehammer or stick. Officers A and B then immediately exited their vehicle. Each officer remained by their respective vehicle door for cover.

Officer B assumed the role of designated cover officer (DCO). Officer B held his/her pistol at the low ready position with his/her finger along the frame.

Officer A assumed the role of contact officer and less-lethal force with the beanbag shotgun. Upon exiting his/her vehicle, Officer A loaded a live round into the beanbag shotgun. The Subject stood by the hospital signage located inside a center island planter. He was armed with a manual lawn edger with a four-foot wooden handle and metal rotary wheel & spikes.

Officer A then gave the Subject commands. The Subject was unresponsive to commands while mumbling unintelligible statements and made hand gestures. To ensure that the Subject could hear the commands, Officer A utilized the public address (PA) system of the vehicle to give the Subject commands. Despite the Subject's unresponsive behavior, Officer A proceeded to tell him to drop the stick approximately six more times.

At 1050:55 hours, Sergeant A arrived and broadcast that he/she was at scene. Sergeant A immediately requested for an additional unit to respond due to the Subject not complying with commands. The Subject, still armed with the edger, then exited the center planter and began to walk toward citizens standing near the entry doors of the hospital. Officer A gave the Subject numerous commands to stop, but again the Subject did not comply and continued walking toward the entry doors of the hospital.

At approximately 1051 hours, Officers A, B, and Sergeant A redeployed from the primary vehicle to a position of cover behind a limousine parked at scene. They did this in order to maintain sight of and close proximity to the Subject, and to prevent him from harming citizens or entering the hospital while armed with the edger.

As he/she redeployed, Sergeant A assigned Officer B the role of DCO and Officer A the role of less-lethal force. At 1051:52 hours, the air unit broadcast, "the air unit upgrade it to a backup he's gonna be walking towards the entrance of the hospital, still has the stick in his hand." Once at a position of cover behind the limousine, Sergeant A requested a backup.

With Sergeant A and Officer B alongside him, Officer A stood behind the limousine and continued to order the Subject to drop the stick. The officers remained at this position of cover for approximately one minute before the Subject moved away toward the west portion of the driveway.

At approximately 1053 hours, the officers redeployed to the center planter of the driveway, and Sergeant A requested MEU to respond to their location Code 3 and a unit with a shield. The officers remained at this position for approximately one minute. During this time, the Subject was standing in the driveway with the edger in hand. Sergeant A advised Officer A “if he tries to harm those people, let him have it right away, meaning deploy the 40, deploy the beanbag shotgun on him.”

At 1053:58 hours, Officers C and D were the first backup unit to arrive on scene. Officer C was equipped with the 40mm less-lethal launcher (LLL). While they stood at the center planter, Officer A advised Officer B and Sergeant A they needed more units west of their location for containment.

While responding Code 3 to the incident, Officer C retrieved the 40mm LLL and loaded it in the moving vehicle, and then pointed the muzzle of the 40mm LLL towards the floorboard.

Officer A then stated that he/she was going to redeploy back toward the limousine for better cover. Officers B, C, D, and Sergeant A followed behind and redeployed. Officer A moved to a position of cover behind a concrete wall at the entrance of the parking structure, and then moved back to the limousine shortly after. Sergeant A and Officers B, C, and D remained behind the limousine and held this position of cover.

Sergeant A again reiterated assignments to the group. He/she assigned Officer A as less-lethal force with the beanbag shotgun, Officer B as DCO, Officer C as less-lethal force with the 40mm LLL, and Officer D as the arrest team.

At approximately 1057 hours, the Subject moved from the driveway and into a large planter adjacent to the parking structure. The officers then redeployed from the limousine to the driveway, at the edge of the large planter, where the Subject stood. At 1058:05 hours, Officer D provided a use of force warning to the Subject.

Officer A continued to talk to the Subject and asked him to drop the stick numerous times. As the Subject stood in the center of the planter, he swung the metal edger up and down over his shoulder. Officer A then announced to the officers at scene, “beanbag ready ok. Beanbag is ready. Beanbag is ready.” The Subject stood in the center of the planter mumbling unintelligibly. He would not comply or respond to commands in English, Spanish, or any of the officers’ attempts at communication.

As more units arrived on scene, Sergeant A provided additional assignments to officers and positioned them west and east of the Subject’s location in order to set up containment around the planter. Sergeant A assigned Officer D as an additional DCO, Officer E as an additional 40mm LLL, Officer F as an additional DCO and arrest team, and Officer G as an additional beanbag shotgun a ballistic shield.

Sergeant A approached Officer E and said, "Hey partner, if he comes towards us, obviously let him have it with the 40, okay?"

Officer G took the shield at 1106:00, then placed it on the ground at 1109:18. The shield remained on the ground unattended during and after the use of force. Officer G did not retrieve the shield while his/her BWV was activated.

Sergeant A placed three contact teams along the planter, at different positions, to setup containment on the Subject. Sergeant A ensured that there were no crossfire issues with each team's position.

The officers remained in their positions while the Subject was contained in the planter area and seated on a small palm tree. During this time, Officers A, B, and Sergeant A discussed the various options available to them to handle the situation. They discussed the possibility of tactical disengagement but decide that was not an option because the Subject posed a threat to the community while still armed with a deadly weapon (the edger).

Ultimately, they decided to wait for MEU to respond to the scene and provide additional resources to take the Subject into custody. If MEU was unable to gain the Subject's cooperation, the officers would attempt to obtain a private persons arrest (PPA) from the hospital staff for trespassing. Additionally, it was agreed upon by Sergeant A and Officer A that if the Subject moved toward them or tried to harm someone, they would utilize less-lethal force.

The officers then held their containment positions for approximately 14 minutes. During this time, the officers continued to talk to the Subject in an attempt to gain compliance as they waited for MEU's arrival at scene.

At approximately 1110:25, Sergeant A directed Officer H to locate the person reporting (PR) and obtain further information for the PPA.

At 1111:46 hours, MEU Units arrived on scene accompanied by a Los Angeles County Department of Mental Health psychologist. Officer A began to brief the MEU officers on the situation.

The psychologist was not in a position to observe the UOF as he/she was positioned away from the encounter due to the ongoing tactical nature of the radio call.

While Officer A briefed MEU, the Subject stood up from his seated position on the palm tree and began moving toward Officer A. The Subject was still armed with the metal edger and held it with his right hand in an upright position with the rotary wheel and spikes above his right shoulder. At 1113:43 hours, Officer A announced, "Hey! Hey! Put it down! Hey! Beanbag ready! Standby!"

Officer A described that moment and stated, "The Subject was approximately 50 feet away from me. I'm monitoring him. I'm speaking to MEU. He's just kind of like leaning

up against a palm tree. Um, at that moment or after that at some point he decides to get up, walk towards me...”

At 1113:48 hours, with a two-handed grip, Officer A shouldered the beanbag shotgun, aimed, and fired one round at the Subject. Officer A stated that he/she fired because the Subject closed the distance to him while still armed with the edger.

The Subject moved approximately 20 feet from the small palm tree (his original position) toward officers. The Subject was approximately 18 feet away from Officer A when he was struck with the beanbag round. Officer A advised that when he/she fired the beanbag shotgun, he/she aimed at the Subject’s “navel, belly button section.” Officer A estimated the distance between him/her and the Subject at the time he/she fired the beanbag shotgun to be approximately 15-20 feet. Officer A’s background during the use of force (UOF) was the brick wall to the parking structure.

The Subject fell to the ground immediately after he was struck by the beanbag round. Sergeant A then announced to the officers at scene to move in for the arrest. All the officers in containment positions then moved in to take the Subject into custody.

Officer E picked up the metal edger from the ground and moved it away from the Subject to ensure that he could not reacquire it. Officers B, C, and F approached the Subject as the arrest team. When the officers approached, the Subject was on the ground curled in the fetal position, with his left side to the ground. Officers B and F held each of the Subject’s wrists, and Officer C controlled the Subject’s legs by utilizing firm grips on his ankles.

Officer C’s 40mm LLL was slung on the front side of his/her person when he/she made contact with the Subject. As he/she held the Subject’s ankles, the 40mm LLL grazed his legs while still slung on Officer C.

Officer B and F rolled the Subject to the right and placed him on his stomach. Officer B then held both of the Subject’s wrists together behind his back while Officer F placed handcuffs on the Subject. Officer F then placed the Subject in the left-lateral position and searched him.

The Subject said, “It hurts!” several times as he was handcuffed. As Officer F searched Sanders’ waistband and right side, the Subject said, “Please someone help me, he/she’s touching my parts, it hurts!” Officer F did not appear to search the Subject’s left side.

As the Subject was rolled to his stomach and handcuffed, a stamp stating, “PROPERTY OF LAC-USC MEDICAL CENTER PSYCHIATRIC HOSPITAL” was visible on the rear left side of his pants.

Officers C and F brought the Subject outside of the planter area and to the driveway, where he fell to one knee at approximately 1114:23.

Once the Subject was searched, Officers C and F assisted the Subject to his feet. At 1115:10 hours, Sergeant A requested a rescue ambulance (RA) for the Subject. Ultimately, Officers C and F escorted the Subject on foot to the emergency room (ER) at the hospital. From his vehicle, Officer D followed Officers C and F as they escorted the Subject on foot.

Officer D utilized his/her personal cellular phone to film the officers as they escorted the Subject. Officer D did this because he/she thought that it was highly unusual to walk someone to the ER after they'd been injured by the beanbag, instead of transporting them. However, Officer D did not give any consideration to putting the Subject in the back of his/her patrol vehicle as he/she followed. Officer D deleted the recording prior to his FID interview.

As Officer B asked the hospital staff to bring a gurney for the Subject, Officer F told him to "Stand up, stand up, come on, let's go," and led him to the sidewalk.

Officers C and F walked the Subject to the ER at the direction of Sergeant A. Sergeant A believed the Subject would receive medical treatment quicker by walking to the ER, rather than waiting several minutes for an RA. The ER is approximately 900 feet from where the UOF occurred.

As Officers C and F walked the Subject down the sidewalk, Officer F said, "I think it's further than we thought." Officer C said, "Uh, I think it's further than I thought, I don't know where it is." As the officers and the Subject rounded the corner, they passed a food truck and several civilians on the sidewalk.

At approximately 1119:41, the officers walked the Subject into the driveway of the ER, where they placed him against a parked car. Officer F then double locked the Subject's handcuffs and searched him again, this time searching both right and left sides. Officer E brought a wheelchair from the hospital for the Subject at approximately 1120:50.

The Subject was treated by the doctor for two fractured left ribs, a contusion to his right lung, and a two-inch circular bruise to his right upper chest. The Subject was admitted to the hospital for his injuries. He was discharged and medically cleared for booking on June 4, 2023.

Due to a delay in the identification of the Subject's fractured ribs, the UOF investigation was initially conducted as a non-categorical use of force (NCUOF) by Sergeant B.

At 1520 hours, Sergeant B was notified of the Subject's definitive injuries, being fractured ribs and a pulmonary contusion. Sergeant B then notified the Watch Commander, who made notification to FID.

After the UOF, all involved officers had resumed their patrol functions. They were not separated and monitored, or admonished immediately after the use of force because the investigation was initially believed to be a NCUOF. Once the UOF was determined to be a CUOF, the involved officers returned to the station, where they were separated,

monitored, and admonished to not discuss the incident.

Body-Worn Video (BWV) and Digital In-Car 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
Sergeant A	Yes	Yes	Yes	Yes	Yes
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	No	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' (BOPC) 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. For every incident, 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 incident, the BOPC made the following findings:

A. Tactics

The BOPC found the tactics of Officers A, B, and Sergeant A to warrant a Tactical Debrief.

B. Drawing/Exhibiting of a Firearm

The BOPC found Officer B's drawing/exhibiting to be In Policy.

C. Less-Lethal Use of Force

The BOPC found Officer B'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 scenario, 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 Techniques

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

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

Planning – The day of the incident was the second time Officers A and B worked together. They had discussions regarding tactics including, contact and cover roles and how they can change during an incident, different use-of-force options and their respective weapon systems. While enroute to the call, Officer A read the comments of the call to Officer B and requested further information from CD regarding the Subject's actions and whether a victim had been identified. Additionally, Officer A retrieved the beanbag shotgun from the center rack of the police vehicle and maintained it in a low-ready position with the muzzle pointed at the floorboard of the vehicle. Officer A's plan was to have a less-lethal force option ready upon their arrival on scene. In order to enhance their situational awareness, Officers A and B asked the air unit to direct them to the area where security and the Subject were located.

Assessment – As Officers A, B, and Sergeant A arrived, they observed the Subject armed with a manual lawn edger. Although they observed the Subject manipulate the edger in an aggressive manner, the officers assessed that the Subject's actions were not an immediate threat to them or others. Both officers and Sergeant A noticed that the Subject talked to himself incoherently, did not respond to their commands, and acted erratically. Based on their training and experience, Officers A, B, and Sergeant A believed that the Subject was suffering from a mental illness.

Officers A, B, and Sergeant A continuously assessed the Subject's actions and took their environment into consideration. When the officers observed the Subject swing and slam the edger on the ground, they determined that the Subject did pose a threat of serious bodily injury or death to the community and a tactical disengagement was not a viable option. When the Subject moved toward Officer A while holding the edger in his hand, Officer A assessed that the Subject posed an immediate threat of violence and physical harm to him/her, resulting in the deployment of the beanbag shotgun and subsequent LERI. The officers assessed that the Subject fell, he was no longer deemed a threat to Officer A.

Time – Upon their arrival, Officers A and B stopped their police vehicle to maintain distance from the Subject, exited and used their respective door's ballistic panel as cover. As the Subject continued to move throughout the driveway and planter area, the officers followed him from a safe distance while they watched him, established containment, issued commands, and used the plants as a barrier and concealment, as they attempted to gain compliance and wait for MEU to arrive.

Redeployment and/or Containment – As the Subject remained armed and moved around the driveway and planter area, the officers redeployed with him in order to maintain proximity to him and prevent his access to community members. The officers redeployed four times using a limousine, light pole, and plants, along with distance -- to gain cover, concealment, and time. Sergeant A designated multiple

contact teams around the large planter area to establish containment of the Subject and prevent him from escaping or accessing community members.

Other Resources – the air unit arrived overhead and directed officers to the location. Officer A requested further information from CD regarding the Subject's actions and whether a victim had been identified. While on scene, Sergeant A requested an additional unit. Ultimately, the air unit and Sergeant A upgraded the call to a backup request, leading to the response of additional units. Sergeant A also requested MEU and a unit with a ballistic shield, and he/she directed an officer to contact the hospital staff for more information on the Subject's actions and possible crimes.

Lines of Communication – Officers A and B gave commands to the Subject directing him to drop the edger. To ensure the Subject could hear the commands, Officer A utilized the PA system of the police vehicle. Throughout the incident, multiple officers gave the Subject commands to drop the edger and a less-lethal warning was issued. Officers attempted to communicate with the Subject in Spanish and Officer A issued the preparatory commands for the deployment of the beanbag shotgun prior to firing it. Upon Sergeant A's arrival, he/she requested resources through CD, including MEU and a ballistic shield. Sergeant A also communicated the roles of the contact team with each officer and coordinated the team's response.

During its review of the incident, the following debriefing topics were noted:

Debriefing Point No. 1: Cover

As Officers A and B arrived on scene, they stopped the police vehicle in the driveway facing the Subject. The Subject stood by the hospital signage located inside a center island planter armed with an edger. Officers A and B exited their police vehicle and stood behind their respective vehicle door's ballistic panels as cover. Upon Sergeant A's arrival, he/she positioned himself/herself near Officer A on the passenger side of the police vehicle. As the Subject exited the planter and walked toward the community members near the entry doors of the hospital, Officers A, B, and Sergeant A redeployed to a position of cover behind a parked limousine located adjacent to the hospital entrance.

The Subject moved away from the hospital and toward the west portion of the driveway. Officers A, B, and Sergeant A then redeployed to the center planter of the driveway to maintain proximity to the Subject and be able to react to his actions. The Subject continued to disregard the officers' commands. Recognizing their lack of cover, the officers redeployed back to a position of cover behind the limousine.

Still armed, the Subject moved further away from the officers into a larger planter area adjacent to the parking structure. The officers redeployed for a fourth time to the driveway at the edge of the planter with limited cover. Officer B utilized a local light pole for cover as they attempted to gain compliance from the Subject. Sergeant A requested an officer to respond with a ballistic shield and one arrived. Officer G maintained the shield but placed it on the ground and subsequently transitioned to

the beanbag shotgun prior to the use of force. The officers held containment on the Subject as they stood in the driveway without the benefit of cover as they verbalized with him and waited for MEU to arrive. The officers remained in this position until the use of force occurred.

The Use of Force Review Board (UOFRB) was unanimous in its overall recommendation for a Tactical Debrief for Officers A, B, and Sergeant A; however, a minority opinion was rendered during the UOFRB's discussion on the topic of cover. The UOFRB assessed Officers A, B, and Sergeant A's tactics as it pertains to cover. The UOFRB noted that upon locating the Subject, the officers deployed the police vehicle at a reasonable distance from the Subject, positioned the vehicle facing toward him, and took a position of cover behind the vehicle door's ballistic panels. The UOFRB opined that because the Subject was armed throughout the incident, he continued to be a threat to public safety and the officers needed to maintain proximity to the Subject and act as a barrier between him and the public. As the Subject moved to different locations throughout the incident, the officers reacted to his movement and utilized cover when available.

The UOFRB Majority opined that once the Subject went into the larger planter area, there was limited cover available because of the planter's layout. The officers maintained a reasonable distance, and the vegetation in the planter acted as a natural barrier and offered them concealment, which gave the officers time to reduce the intensity of the incident. The Majority opined that had the officers redeployed back to their police vehicles for cover, their view of the Subject would have been obstructed and it would have increased the likelihood of the Subject escaping or gaining access to community members. The Majority determined that the officers' use of cover was not a substantial deviation.

The UOFRB Minority considered the Majority's assessment of the officers' use of cover. The Minority recognized that this was a dynamic situation which was compounded by the inability to communicate with the Subject. Officers A, B, and Sergeant A had limited cover due to the Subject constantly relocating himself throughout the incident. The Minority would have preferred that the officers had utilized cover when dealing with an armed suspect but recognized that they were unable to do so due to the fluidity of the Subject's movements and limited availability of cover. The Minority determined that the lack of cover was a substantial deviation, with justification, from Department-approved tactics.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A, B, and Sergeant A were not a substantial deviation from Department-approved tactical training. The BOPC found the tactics of Officers A, B, and Sergeant A to warrant a Tactical Debrief

Additional Tactical Debrief Topics

Loading 40mm LLL While in a Vehicle – Officer C, while seated in the passenger seat of his/her police vehicle, removed the 40mm LLL from the rack and loaded a sponge round in the chamber. According to Officer C, he/she wanted to have less-

lethal force ready in case the primary unit needed it. Alternatively, he/she could have kept the 40mm LLL unloaded while being inside of the police vehicle, reducing the risk of an unintentional discharge. To enhance future performance, the Chief directed Officer C to attend the Tactical Debrief directed that this be a topic of discussion during the Tactical Debrief.

Retention of Equipment – While officers continued to talk to the Subject as he was contained in the planter area and seated on a small tree, Officer G placed the ballistic shield on the ground. When officers approached the Subject to take him into custody, Officer G, who had transitioned to the beanbag shotgun, left the ballistic shield unattended on the ground. Although numerous officers were present, it is important that officers maintain control of their equipment to limit the possibility of suspect(s) obtaining possession of police equipment. To enhance future performance, the Chief directed Officer G to attend the Tactical Debrief and directed that this be a topic of discussion during the Tactical Debrief.

Command and Control

Sergeant A responded to the radio call, met with Officers A and B, and immediately gained situation awareness. Though he/she did not declare himself/herself as the incident commander (IC), Sergeant A assumed command and control and immediately requested an additional unit respond due to the Subject not complying with commands. As the incident unfolded, Sergeant A broadcast a request for backup, an MEU Unit, and a unit with a ballistic shield; and Sergeant A coordinated with the air unit. Sergeant A assigned Officer B as the DCO and Officer A as less-lethal force. As additional officers arrived, Sergeant A slowed the pace of the event and methodically coordinated his/her resources by designating roles and created multiple contact teams that established containment around the planter and the Subject. With the assistance of Officer D, Sergeant A also requested traffic control. Sergeant A directed Officer H to contact the hospital staff for more information on the Subject's actions and possible crimes committed prior to their arrival.

When the Subject fell to the ground after being struck by the beanbag round, Sergeant A directed the contact team to take him into custody. Once the Subject was taken into custody, Sergeant A requested an RA for him. As the scene of the use of force was a hospital facility, Sergeant A canceled the RA request, believing that the Subject would receive medical treatment quicker by having officers walk him to the ER, rather than waiting several minutes for an RA. At the direction of Sergeant A, Officers C and F escorted the Subject to the ER.

All involved officers resumed their patrol functions at the conclusion of the incident. They were not separated and monitored or admonished immediately after the use of force because it was initially believed to be non-categorical. However, when the use of force was later determined to be categorical, the involved officers returned to Wilshire Station; and they were separated, monitored, and admonished not to discuss the incident.

Sergeant C notified the Department Operations Center (DOC) of the LERI.

The BOPC determined that the overall actions of Sergeants A and C were consistent with Department training.

B. Drawing/Exhibiting

Officer B

First Occurrence

According to Officer B, he/she observed the Subject armed with an edger as he/she and Officer A arrived on scene. Officer B assumed the role of DCO and advised that he/she unholstered his/her pistol because the Subject was armed, which led him/her to believe that the situation could escalate to the use of lethal force.

Second Occurrence

At approximately 1059:11 hours, while Officer B stood behind the light pole located at the edge of the large planter area, he/she unholstered a second time. He/she remained at low-ready position.

Note: Officer B stated in his/her transcripts that he drew his/her pistol when he/she took cover behind the limousine. BWV footage indicates Officer B was holstered when he/she was behind the limousine. As Officer B stood behind the light pole, Officer D's BWV depicts him/her unholstering his/her pistol for a second time. Although the location and time at which Officer B recalled drawing his/her pistol were different than what BWV footage supports, the circumstances articulated by Officer B that caused him/her to draw and exhibit were consistent and ongoing throughout the incident.

The UOFRB assessed Officer B's drawing of his/her pistol. The UOFRB noted that the Subject was armed with an edger and, given the proximity of the officers, the Subject clearly posed a threat of serious bodily injury or death. The UOFRB opined that Officer B's decision to unholster his/her pistol was within Department policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe there was a substantial risk the situation may escalate to the point where lethal force may be justified. Therefore, the BOPC found Officer B's drawing/exhibiting to be In Policy.

C. Less-Lethal Use of Force

Officer A – Beanbag shotgun, fired one beanbag round from approximately 18 feet.

Background – In Officer A's background during the use of force was the brick wall of a parking structure.

According to Officer A, he/she observed the Subject armed with an edger and closing the distance on him. Officer A described the weapon as a four to five feet

long wood stick with a sharp metal rod or wheel type end capable of causing serious bodily injury or death. Officer A gave the Subject commands to stop and put down the edger. Fearing for his safety, Officer A targeted the Subject's navel area and discharged one round from the beanbag shotgun to protect himself from the immediate threat of serious bodily injury.

The UOFRB assessed Officer A's less-lethal use of force. The UOFRB noted that the Subject was armed with an edger, acting erratically, and posing an immediate threat to public safety. Despite repeated commands from the officers to put the edger down, the Subject never responded and failed to comply. The UOFRB noted that the Subject was given a warning by Officer D prior to the application of force. The UOFRB opined that officers showed significant restraint and respect for human life in their attempts to de-escalate the situation and avoid using lethal force. The UOFRB noted that Officer A discharged one beanbag round from the shotgun in response to the Subject closing the distance on him, as the Subject posed an immediate threat to the safety of Officer A.

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

Medical Treatment/Rendering Aid

The UOF occurred at 1113:48 hours. Approximately 30 seconds after the UOF, the Subject was taken into custody. Officers C and F rolled the Subject over, assisted him to his feet, and walked him out of the planter area. At 1115:20 hours, Sergeant A requested an RA for the Subject. Shortly after, Sergeant A canceled the RA request and opted for Officers C and F to escort the Subject to the hospital on foot. As the scene of the UOF was a hospital facility with an emergency room located within walking distance, Sergeant A found it practicable to escort the Subject to the emergency room instead of waiting for an RA.

At 1116:40 hours, Officers C and F escorted the Subject on foot to the ER for medical treatment. Approximately three minutes after leaving the UOF scene and 900 feet from where the use of force occurred, the Subject arrived at the entrance of the ER. The Subject was treated for two fractured left ribs, a contusion to his right lung, and a two-inch circular bruise located on the right side of his mid-chest. The Subject was held for medical observation. FID detectives were unable to obtain a medical release waiver from the Subject.

After being struck by the beanbag round, the Subject clearly verbalized that he was in pain. Medical examination confirmed that the Subject suffered two fractured ribs and a contusion of the lung. At the time the Subject was taken into custody, neither the officers nor medical staff checked him for potential injuries prior to transport.

Officer F did not appear to fully search the Subject's person prior to walking him on a busy public street, past several civilians. The search was not performed until the

Subject arrived at the entrance to the Emergency Room, which the OIG believes could have posed a potential danger to civilians and to the officers themselves.

Officer F's failure to double-lock the Subject's handcuffs prior to walking him to the ER may have contributed to further physical distress.

Requirement to Intercede

Based on their review of this incident, the BOPC determined that the force used was clearly not beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances. Therefore, there was no requirement to intercede.