

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

OFFICER-INVOLVED SHOOTING – 020-20

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

| | | | |
|-----------------|---------|--|--|
| North Hollywood | 5/27/20 | | |
|-----------------|---------|--|--|

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
|--|--------------------------|

| | |
|-----------|-------------------|
| Officer M | 7 years, 9 months |
|-----------|-------------------|

Reason for Police Contact

Officers responded to a radio call of a neighbor dispute. During the incident, the Subject advanced toward officers with a sword and an Officer-Involved Shooting (OIS) occurred.

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

Subject: Male, 50 years of age.

Board of Police Commissioners' Review

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

The following incident was adjudicated by the BOPC on April 20, 2021.

Incident Summary

On May 27, 2020, Officers A and B were assigned to patrol duties. Officer B was the driver of a marked black and white police Sport Utility Vehicle (SUV) equipped with ballistic door panels and a Digital In-Car Video System (DICVS).

Officers A and B had worked together approximately four to five times before this incident. According to the officers, they had various tactics discussions regarding how to conduct traffic stops, foot pursuits, type of equipment worn, cover and contact roles, and radio broadcast responsibilities.

The incident began at approximately 1040 hours, when Communications Division (CD) received a call from Witness A reporting a male neighbor, under the influence of narcotics, had damaged the side view mirror to her husband's (Witness B's) vehicle. According to Witness A, the male (the Subject), was armed with a stick. According to Witness A, the Subject claimed to be a police officer and was displaying a badge attached to his waistband.

At 1044 hours, CD broadcast, "Any North Hollywood unit, neighbor dispute. Suspect is a male [...] wearing a cap, blue/grey shirt, khaki shorts and sandals." At 1050 hours, CD assigned the radio call to Officers A and B.

At approximately 1135 hours, Officers A and B arrived in the area, parked their vehicle south of Witness A's residence and waited outside for her to meet them. A short time later, Witness B exited his residence and approached the officers. Witness B stated to Officer B that the Subject had damaged the driver's side mirror of his vehicle with a stick. When Witness B confronted him, the Subject claimed he was a police officer and displayed a badge attached to his waistband.

During their conversation, which lasted approximately 17 minutes, the officers listened to Witness B's concerns and learned about the Subject's behavior. Officer B asked if the Subject was known to have any firearms inside his residence and Witness B replied he did not know. However, Witness C, a neighbor who later joined the group, provided the officers with second-hand information that the Subject pointed a firearm at a nearby neighbor several weeks prior. Witness C pointed out the Subject's residence and indicated he lived in the back house. Witness B believed the Subject was possibly suffering from mental illness and therefore did not wish to press charges, but wanted the conflict resolved. The officers provided Witnesses B and C with dispute resolution options and how to obtain a restraining order from the court. Based on the information they were provided, Officers A and B decided to contact the Subject to resolve the neighbor dispute.

At approximately 1154 hours, Officers A and B approached the Subject's residence and attempted to locate the address numbers, without success. Officer B then conducted a wants and warrants inquiry, and a Department of Motor Vehicle check on two vehicles,

parked directly in front of the Subject's residence. Both vehicles were registered to the Subject, but with a different address.

At approximately 1158 hours, Officers A and B approached the front of the residence and knocked on the door but received no answer. They then decided to check the rear residence.

At 1200:12 hours, Officer A updated the officers' location with CD.

Based on BWV, the officers walked toward the backyard through the south side of the residence. Officer B was the lead officer and approached the rear house. The back house had a sliding glass patio door with a white sheet covering the entrance. Officer B immediately announced themselves stating, "Hello, LAPD is anyone home?" In response to the officer's announcement, the Subject's voice can be heard from within the house. Initially, the Subject's voice was unintelligible, but as he gets louder and closer to the doorway, he could be heard yelling, "I'm here to fight, I'm ready to die! Do you have a problem with that?" Officer B responded, "No, No problems." The Subject yelled, "You want to fight with me!" Officer B attempted to deescalate the situation and stated, "No we don't want to fight I just want to talk for a minute."

At 1201:34 hours, the Subject slammed open the sliding glass patio door abruptly and aggressively and exited the residence with a large bladed sword in his right hand wearing a camouflage color cloth on his head, a blue shirt, green shorts, and sandals. the Subject yelled at the officers, "Shoot me, shoot me [expletive], shoot me!"

Officers A and B, in response to the deadly threat, unholstered their pistols and immediately redeployed away, with the Subject chasing after them. The officers redeployed to the front of the residence the same way they had entered the backyard. Officer B was the lead officer, and as he/she was running through the side yard, broadcast the following, "we need a backup, 415 man with a knife."

The Subject chased Officers A and B armed with the sword while throwing metal items at them. The officers continued backing away from the Subject, increased their distance from him while taking cover, and attempted to deescalate the situation by telling the Subject to drop the sword. Between the times of 1201:57 to 1203:33 hours, the officers verbalized 19 times with him to disarm, but the Subject did not do so.

At 1202:08 hours, Officer A upgraded the officers' backup request to an "officer needs help" call. While the officers waited for additional units to arrive, the Subject returned toward his residence and was out of their view when the Air Unit arrived overhead. At 1204 hours, Officers C and D, Air Support Division, arrived overhead. Once additional units began arriving in the area Tactical Flight Officer (TFO) Officer C directed officers and established a perimeter.

As a result of the "help" call, numerous officers and supervisors responded.

At approximately 1205 hours, Officers O and P arrived on scene and met with Officer A, who advised that the Subject was armed with a sword and had walked back toward his residence.

During this time, Officer E arrived. Officer E met with Officer A and assisted Officer A with radio broadcasts and maintaining a line of communication between the Air Unit and the officers on scene. Officer E broadcast that the Subject was armed with a sword and was wanted for ADW (Assault with a Deadly Weapon) on police officers. As additional officers arrived, they brought several less-lethal force options with them, which included beanbag shotguns and 40mm Less-Lethal Launchers (LLL) and positioned themselves behind several parked vehicles for cover.

At 1206 hours, Sergeant A was the first supervisor to arrive on scene. He/she immediately met with Officers A and E and was advised that the Subject had returned to his residence. During this time Sergeant A remembered the prior mentioned ADW incident that occurred on April 25th because he/she had responded to it and asked the group of officers if this was the same Subject. Officer N confirmed it was. Sergeant A requested an officer with a rifle and immediately directed all officers to don their helmets and take cover behind the police vehicles' ballistic doors. As this was occurring, Sergeant B arrived and was walking toward the front line of officers when he/she was stopped by Sergeant A and informed that the Subject was wanted for an ADW on a police officer and was possibly armed with an assault rifle based on the prior incident. Sergeant A advised Sergeant B to don his/her helmet.

At approximately 1209 hours, Sergeant A directed officers to relieve Officers A and B of their positions so he/she could meet with them to get further details about the incident. Officer B explained to Sergeant A that they responded to a radio call of a neighbor dispute regarding the Subject damaging Witness B's vehicle, they then went to the Subject's residence to meet with him. The Subject exited with a sword and chased them out onto the street.

While Sergeant A was meeting with the officers, Sergeant B was assessing the situation. Sergeant B met with Sergeant A and advised him/her of several observations and tactical concerns. They discussed possibly evacuating the front residence since the Subject was believed to live in the back house and evacuate a near-by elementary school. They also discussed and addressed crossfire concerns because officers were positioned to the north. In addition, they discussed the possibility of the situation becoming a barricaded suspect incident. Another concern was the large number of officers and the number of officers with rifles staging. Lastly, they wanted to ensure adequate less-lethal options were available and ready to use if the Subject unexpectedly exited the residence.

The sergeants agreed to work together by dividing responsibilities. Sergeant B would oversee tactics and Sergeant A would be the overall Incident Commander (IC) at scene. Sergeant C assumed a support role.

Officer E continued as the communications officer and broadcast pertinent information.

Since several officers were equipped with rifles, Sergeant B directed two officers with rifles to a perimeter position one street east to guard against the Subject by flanking them.

At approximately 1212 hours, Sergeants A and B were in the process of implementing their plans when the Air Unit broadcast that they had a visual of the Subject in the backyard armed with a sword. The Subject was throwing and breaking items and had changed clothing and was now wearing a camouflage hat and vest and green shorts. Officer E acknowledged the Air Unit's broadcast and requested that they use the helicopter's public address (PA) system to communicate with the Subject to drop the sword and exit onto the street and surrender.

At 1213:50 hours, the Subject walked out onto the street still armed with the sword in one hand and now was also armed with a metal circular lid approximately one foot in diameter in the other. He was unintelligibly yelling at the officers from a distance. Sergeants A and B observed the Subject in the street and asked if indeed that was the Subject. Officer B confirmed it was. Sergeant B immediately ordered officers to prepare less-lethal options, including a 40mm LLL.

Witness D was inside her residence looking out through her window and observed when the Subject walked out onto the street. Witness D stated, "I saw him when he went out again. And it looked like he kind of crossed his heart, and then he kind of started swinging the machete, and I think he hit those cars that were parked in front -- or right next -- in front of the (sic) our next-door neighbor's house. And I heard the cop say to stay back or stop -- because he was like charging them."

At approximately 1214 hours, Officer L, who was equipped with a police rifle, was positioned on the west side of the street and a few feet to the left of Officer M. Officer L repeatedly asked the supervisors how close they would allow the Subject to get to them. When he/she received no response, Officer L suggested a threshold and described a white SUV parked approximately 73 feet to the north of them on the east curb. Sergeant A agreed with the location of the threshold.

At 1214:30 hours, Sergeant B directed Officer B to use the police vehicle's PA system to give the Subject commands. Using the PA system, Officer B repeatedly instructed the Subject to stop advancing toward them, to drop the sword and to lay down on the ground. The Subject refused to comply. He kept walking toward the officers while carrying the sword in an aggressive, threatening and challenging manner.

At 1215:20 hours, TFO Officer C observed the Subject continuing to advance toward the officers.

Anticipating that force may become necessary, TFO Officer C requested the Fire Department to respond and stage nearby.

Sergeant B observed the Subject advancing and ordered officers to prepare the 40mm Less-Lethal Launcher (LLL) and not allow him to get any closer.

As Sergeant B was yelling the command to deploy less-lethal force, Officer G, who was positioned to the left of Officer M, fired one round from his/her 40mm LLL at the Subject.

Almost simultaneously, Officer M also fired a single round from his police rifle. There was no evidence of a warning being issued to the Subject regarding the use of force prior to the discharge of the 40mm LLL or the rifle.

During the autopsy of the Subject's remains no injury or mark was observed consistent with a 40mm projectile impact. The discharged 40mm LLL projectile was never located. Officer F reported seeing the 40mm LLL round miss the Subject.

At 1215:33 hours, Officer M was positioned behind the driver's side door of a police SUV and equipped with a Department-issued police rifle. He/she had a direct and unobstructed view of the Subject as he walked in the middle of the street directly toward the officers. As the Subject closed the distance, Officer M believed the situation was becoming increasingly more dangerous for him/herself and the officers around him/her. He/she further believed the situation was nearing the point where deadly force may become necessary. When Officer M estimated that the Subject was approximately 20 to 30 feet away and closing the distance, he/she believed the Subject posed a deadly threat because he was now in position where he could rapidly reach and strike an officer with the sword.

Based upon those perceptions, Officer M believed the situation had escalated to a deadly force situation. He/she looked through his/her rifle scope, aimed, and fired one round at the Subject in a northern direction from what was in fact an approximate distance of 77 feet. The Subject was struck by the rifle round on the left side of his chest and fell to the ground, landing onto his back.

According to the FID investigation, at 1215:19 hours, Officer D broadcast a request for a RA to respond and stage at a nearby location. At approximately 1220 hours, Department personnel at scene became aware that lethal force had been utilized against the Subject. Officer F searched the Subject and monitored his vital signs. As the Subject's pulse diminished, Officer E directed Officer F to uncuff the Subject and begin cardiopulmonary resuscitation (CPR). At approximately 1221 hours, Officers F and J began administering chest compressions until relieved by LAFD personnel. At approximately 1225 hours, LAFD personnel arrived on scene and took over emergency medical treatment. Based on their assessment and observations, LAFD personnel determined the Subject's death at 1228 hours.

BWV and DICVS Policy Compliance

| NAME | TIMELY BWV ACTIVATION | FULL 2-MINUTE BUFFER | BWV RECORDING OF ENTIRE INCIDENT | TIMELY DICVS ACTIVATION | DICVS RECORDING OF ENTIRE INCIDENT |
|-------------|------------------------------|-----------------------------|---|--------------------------------|---|
| Sergeant A | Yes | Yes | Yes | Yes | Yes |
| Sergeant B | Yes | Yes | Yes | Yes | Yes |
| Officer A | Yes | Yes | Yes | Yes | Yes |
| Officer B | Yes | Yes | Yes | Yes | Yes |
| Officer E | No | Yes | Yes | Yes | Yes |
| Officer G | Yes | Yes | Yes | Yes | Yes |
| Officer I | Yes | Yes | Yes | Yes | Yes |
| Officer K | Yes | Yes | Yes | Yes | Yes |
| Officer L | Yes | Yes | Yes | Yes | Yes |
| Officer M | Yes | Yes | Yes | Yes | Yes |

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing and 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 Sergeant A and Officer M's tactics to warrant a finding of Administrative Disapproval. The BOPC found Sergeant B and Officers A, B, E, G, I, K, and L's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers A, B, E, G, I, K, L, and M's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

The BOPC found Officer M's lethal use of force to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or

submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized 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. 4, 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 Subject 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.

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.

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

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.

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*. (Special Order No. 4, 2020, Policy on the Use of Force - Revised.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

A. Tactics

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*

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

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

Planning – Officers A and B had worked together approximately four to five times prior to this incident and had tactics discussions regarding traffic stops, foot pursuits, type of equipment worn, cover and contact roles, and radio broadcast responsibilities. Officer A stated he/she and Officer B formulated a plan to speak to the resident who lived in the front residence of the Subject’s location to ascertain what type of interactions they had with the Subject and if the neighbor observed signs of mental illness when interacting with the Subject.

In their planning, Sergeants A and B discussed possibly evacuating the residence in front of the Subject, who lived in the back house and evacuating a nearby elementary school. They addressed crossfire concerns and discussed the possibility of the situation becoming a barricaded suspect incident. Sergeant B would oversee tactics and Sergeant A would be the overall IC at the scene. Officer E would remain as the communications officer and broadcast pertinent information. Sergeant B directed officers at scene to prepare less-lethal options, including a 40mm LLL.

Sergeant A supervised an arrest team to take the Subject into custody but did not designate specific roles to the officers.

Assessment – Officer A and B conducted an initial assessment of the incident and met with several persons. In speaking with Witness B, Officers A and B were advised that the Subject had struck Victim B’s vehicle with a stick, causing damage; however, Witness B did not wish to prosecute the Subject. The officers were also advised that the Subject displayed a badge and claimed to be a police officer when Witness B confronted the Subject. During the continuing assessment, Witness B also advised Officers A and B that the Subject exhibited odd behavior and believed the Subject suffered from mental illness but did not know if the Subject had any firearms in his/her possession. An additional neighbor, Witness C, advised the officers of an incident in which a firearm was pointed at another neighbor weeks prior. Witness C did not have the details of the incident as this was third-party information and the officers were unsure of the validity of the information; therefore, Officers A and B assessed the current incident and noted that no firearms were involved. Officer A and Officer B attempted to speak to another resident, who lived in the front residence of the Subject’s location, to assess if the neighbor observed signs of mental illness when interacting with the Subject.

Time – The Subject, armed with a sword and throwing metal items at the officers, chased Officers A and B, who continued to back away from the Subject, increasing their distance and taking cover from the Subject to provide them time, while communicating with the Subject. The redeployment of Officers A and B afforded officers more time to assess the incident and request additional resources.

The containment of the Subject's residence was established down the street from the residence. The distance and the use of vehicles for cover afforded the officers additional time to communicate with the Subject and react to his/her actions.

Redeployment/Containment – Officers A and B redeployed to the front of the residence with the Subject chasing them with the sword in his/her hand. Officers A and B continued to redeploy away from the Subject, establishing containment from a position down the street from the residence.

TFO D directed responding officers to establish a perimeter to contain the residence where the Subject was located inside.

Because several officers were equipped with patrol rifle, Sergeant B redeployed two of the patrol rifle officers to a perimeter position to guard against the Subject leaving containment and flanking officers. Officers were positioned to contain the Subject to allow for more time to attempt to resolve the incident.

Other Resources – Officer B initially requested a back-up unit and then Officer A upgraded the request to a "help call," to obtain additional resources in response to the threat the Subject posed.

As additional officers arrived, they brought several less-lethal force options with them, which included beanbag shotguns and 40mm LLLs and positioned themselves behind parked vehicles for cover.

Sergeant A recalled the prior ADW incident involving the Subject and a rifle, so Sergeant A requested the response of officers who were equipped with patrol rifles to the location. Sergeant A also directed all officers at scene to don their helmets and to utilize the police vehicles' ballistic doors as cover.

Lines of Communication – Officers A and B walked towards the backyard through the south side of the residence and Officer B announced their presence. In response, the Subject yelled, challenging the officers to fight. Officer B attempted to de-escalate the situation with the Subject by communicating that they did not want to fight the Subject and only wanted to speak with him. Officers A and B continued attempting to de-escalate the situation by verbalizing to the Subject to drop the sword 19 times between 1201:57 to 1203:33 hours. After redeploying away from the Subject, Officers A and B communicated details of their contact with the Subject to

responding officers and Sergeant A. After resources had arrived and set-up, Officer B repeatedly instructed the Subject to stop advancing toward them, to drop the sword and to lay down on the ground through the police vehicle's PA system; however, the Subject refused to comply. After the Subject was struck and fell to the ground, Officer B continued to use the PA system and directed the Subject to rollover onto his/her stomach and to not move.

Officer E assisted Officer A with radio broadcasts and maintaining a line of communication between the Air Unit and the officers on scene. Officer E broadcast pertinent information, including that the Subject was armed with a sword and was wanted for ADW on police officers.

The Air Unit's PA system was utilized to direct the Subject to drop the sword and place his/her hands into the air multiple times; however, the Subject refused to comply. Officer D observed the Subject continuing to advance towards the officers. Anticipating that force may become necessary, Officer D requested that a LAFD RA respond and stage nearby.

Officer L repeatedly asked the supervisors how close they would allow the Subject to get to them. When Officer L received no response, he/she suggested the "threshold" point as the parked white SUV located approximately 73 feet north of them on the east curb, and Sergeant A agreed with the location of the threshold but did not clarify its intended purpose or ensure that the officers were aware of their roles and who the designated cover officers (DCO) were.

The BOPC recognized this was a tactically fluid incident. The BOPC noted the ongoing and continuous efforts by the officers throughout the incident to communicate with the Subject and attempts to gain the Subject's compliance without having to resort to force. The officers did not rush and utilized time as the Subject continued walk towards the officers holding a sword and metal lid; however, the Subject's advancement and continued refusal to comply with commands reduced the officers' time and options. The BOPC was critical of Sergeant A's communication and discussed that additional coordination and clearer communication by Sergeant A could have mitigated the officers' confusion by reducing the number of officers involved in the incident and by clearly assigning roles with clarification as to what was expected of officers as the Subject advanced.

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

- 1. Tactical Planning/Tactical Communication** (Substantial Deviation, without justification – Sergeant A)

In this case, the BOPC noted that Officers A and B believed the Subject had committed a vandalism offense and no firearm was involved in this incident.

Victim B requested that Officers A and B assist him in resolving the conflict rather than have the Subject arrested, as Victim B believed the Subject possibly suffered from mental illness.

In addition, the BOPC noted Officer's A and B's efforts to re-deploy in their efforts to de-escalate rather than confront the Subject, who was armed with a sword, which could have necessitated the immediate use of lethal force.

Based on the totality of the circumstances, the BOPC determined that while there were areas identified for improvement, Officers A and B's actions were not a deviation from approved Department tactical training.

Sergeant A was the first supervisor to arrive on scene. Sergeant A met with Officers A and B where he/she was informed of the incident and that the Subject had returned to his/her residence. Sergeant A recalled a prior incident that occurred a few weeks earlier involving an ADW incident with an assault rifle and determined the Subject was the same individual as in the current incident. Due to the past incident involving a possible rifle, Sergeant A requested the response of patrol rifle officers and directed personnel on scene to don their helmets. Sergeant A also advised personnel to tactically place themselves behind the police vehicles ballistic doors for cover.

Sergeant A met with Sergeant B where they determined Sergeant B would take charge of the tactics for the incident as Sergeant A declared him/herself as IC. Although Sergeant A was the designated IC, he/she continued to manage the tactics of the incident, rather than provide oversight.

Officer L, who was equipped with a patrol rifle, repeatedly asked the supervisors how close they would allow the Subject to get to them. When Officer L received no response, he/she suggested the "threshold" point as the parked white SUV located approximately 73 feet north of them on the east curb. Sergeant A agreed with the location of the threshold but did not clarify its intended purpose or ensure that the officers were aware of their roles and who the Designated Cover Officers (DCOs) were. Sergeant A communicated and reminded the officers to re-position to cover. After the OIS, Sergeant A supervised an arrest team to take the Subject into custody but did not designate specific roles to the officers. Upon his/her discovery that an OIS incident occurred, Sergeant A assisted in the direction of the OIS scene.

Based on the totality of circumstances, the BOPC determined that Sergeant A's tactics were a substantial deviation, without justification, from approved Department tactical training.

Sergeant B was the second supervisor to arrive on scene where he/she met with Sergeant A and advised Sergeant A of his/her observations and tactical

concerns. Sergeants A and B discussed dividing responsibilities and coordinating their efforts where Sergeant B would provide tactical oversight and Sergeant A would assume overall IC duties at the incident. Officer E would remain as the communications officer and broadcast pertinent information. In their planning, Sergeant B discussed possibly evacuating the residence in front of the Subject, who lived in the back house, and evacuating a nearby elementary school. They also discussed the possibility of the situation becoming a barricaded suspect incident. Sergeant B discussed his/her concern of the large number of officers present and the amount officers with patrol rifles staging, so Sergeant B directed two patrol rifle officers to redeploy to a perimeter position to prevent the Subject from flanking the officers. Sergeant B directed officers at scene to prepare less-lethal force options, including a 40mm LLL. Sergeant B directed Officer B to utilize the police vehicle's PA system to give the Subject commands. Sergeant B observed the Subject advancing and advised officers to prepare the 40mm LLL and not to allow the Subject to advance any closer to the officers. After the OIS incident, Sergeant B identified Officer M as the shooter. Sergeant B separated Officer M and directed him/her to engage his/her patrol rifle's safety and place the patrol rifle in the trunk of Sergeant B's police vehicle.

Based on the totality of circumstances, the BOPC determined that while there were areas identified for improvement, Sergeant B's tactics were not a deviation from approved Department tactical training.

2. Required Equipment (TASER) (Substantial Deviation, without justification – Officer M)

Officer M was not equipped with his/her TASER at the time of the OIS.

In this case, although Officer M was donning additional equipment in preparation to deploy his/her patrol rifle, there was no exemption in the policy for patrol rifle officers to not be equipped with a TASER. It is the Department's expectation and policy that officers working a uniform assignment be equipped with a TASER on their person as an additional less-lethal force option, should one be needed.

Based on the totality of the circumstances, the BOPC determined that Officer M's lack of having a TASER on his/her person was a substantial deviation, without justification, from approved Department tactical training.

3. Utilization of Cover (Substantial Deviation, with justification – Officers K and G)

As the Subject approached Department personnel, Officer G, equipped with the 40mm LLL, and Officer K, equipped with his/her patrol rifle, positioned themselves between a police vehicle and another parked vehicle, not fully utilizing cover that was available as the Subject approached. Sergeant A

provided general instruction to the officers in that area to “Stay in cover” and “Back-up to cover” and Officers G and Officer K re-deployed further back between the two vehicles using them as cover.

Based on the totality of circumstances, the BOPC determined that while there were areas identified for improvement, Officers G and K’s utilization of cover during this incident was a substantial deviation, with justification, from approved Department tactical training.

4. Situational Awareness/Tactical Communication (Substantial Deviation, without Justification – Officer M)

Officer M stated that he/she heard discussions regarding the deployment of Beanbag shotgun and 40mm LLL force options; however, he/she did not visually confirm their presence and was unaware that there was a 40mm LLL to his/her left. Officer M did not clarify with the other officers at scene if the Subject crossed the designated threshold, or whether less-lethal force would be attempted prior to the application of lethal force. Officer M stated that he/she did not hear that Officer L was designated as the DCO. Officer M believed that he/she had the best position with the patrol rifle relative to the Subject. Officer M designated him/herself as the DCO but made no announcement to the other patrol rifle officers.

Based on the totality of the circumstances, the BOPC determined that Officer M’s actions substantially deviated, without justification, from approved Department tactical training.

- The BOPC also considered the following:
 - **Radio Communications (Incomplete Broadcast)** – Officer A broadcast, “I need help here;” however, he/she did not broadcast his/her unit designation or location. Upon being asked by CD, Officer A included his/her location for responding units.
 - **Non-Medical Face Coverings** – Officers A and B wore face coverings throughout the incident until directed by Sergeant A to remove their face coverings to brief him/her on the incident. As additional personnel responded to the help call, no additional Substantially Involved Personnel to include Sergeants A and B, along with Officers E, G, I, K, L, and M, were observed donning face coverings.
 - **Beanbag Shotgun Protocols (Unloading)** – While at scene, Officer I chambered one round into the Beanbag shotgun. As the incident progressed, Officer I returned to his/her police vehicle, conducted a chamber check verifying that one round was still in the chamber, placed the loaded Beanbag shotgun into

the trunk of his/her police vehicle, and then responded back to the tactical incident.

- **Shooting Platform** – As Officer G was readying to utilize the 40mm LLL and deploy a less-lethal munition towards the Subject, Officer K grabbed Officer G's left shoulder with his/her right hand and held onto Officer G's shoulder while providing Officer G the verbal direction of "Hit him. Go, go, go, go." As Officer K continued to grip Officer G' shoulder, Officer G fired one round from the 40mm LLL.
- **40mm LLL Protocols (Less-Lethal Distances/Preparatory Commands/Warning)** – According to Officer G, as the Subject continued to approach the officers, while still holding the sword in his hand, a threshold was discussed marking a point where Officer G, who was armed with the 40mm LLL, believed lethal force would be utilized against the Subject. As the Subject continued to advance towards officers, Officer G discharged the 40mm LLL towards the Subject without providing a less-lethal warning. In addition, Officer G did not believe he/she could hit the Subject from the initial distance, which he/she estimated to be 90 feet from the Subject; however, the 40mm LLL deployment range is from five to 110 feet.
- **Maintaining Control of Equipment (40mm LLL)** – Officer G placed his/her 40mm LLL on the ground near the right side of the Subject to assist in performing CPR on the Subject.

These topics were to be discussed at 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 personnel to discuss individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC determined that Sergeant B, along with Officers A, B, E, G, I, K, and L's tactics did not deviate from approved Department tactical training.

In addition, the BOPC determined that Officer M's tactics substantially deviated, without justification, from approved Department tactical training.

Furthermore, the BOPC determined that Sergeant A's tactics substantially deviated, without justification, from approved Department tactical training.

B. Drawing and Exhibiting

Service Pistols

- **Officer B** – According to Officer B, he/she and Officer A went to the backyard and approached the door to the rear house. Officer B called out, identifying themselves as police officers, and asked for “whoever’s in the back if they could step out.” Officer B stated that the officers just wanted to talk to the person. Officer B heard an “initial shout” coming from inside but was unable to understand it. From inside the building, Officer B heard someone shout, “Do you want to [expletive] fight?” Officer B responded that he/she and Officer A wanted to talk and “didn’t want any trouble.” The Subject then stated, “Do you want to [expletive] fight?” Officer B observed the curtains get pulled away from the window and observed the Subject standing inside holding a “machete-type sword in his right hand.” Officer B described the sword as “gray metal, approximately maybe a four to five-inch handle with the blade of maybe a foot and a half to two feet in length.” The Subject began to lower the sword to his right side and opened the sliding door with his right hand. The Subject stated, “Just [expletive] kill me.” As the Subject, who was approximately five to ten feet away from Officer B, opened the sliding door, Officer B drew his/her service pistol. Officer B believed that he/she and Officer A were in a tactical situation where “there was an imminent threat of death or serious bodily injury [sic] to my partner and I.” Officer B considered “using lethal force against the Subject in that moment.” Officer B stated, “Based on my training and experience I believe I could have deployed lethal force on the Subject.”
- **Officer A** – According to Officer A, after Officer B knocked on the door of the pool house, they heard “yelling.” The Subject stated, “Do you want to fight?” Officer B responded, “No. We don’t want to fight you.” After a few moments, the Subject exited the pool house armed with a sword in his right hand. The Subject held the sword down to the ground at an approximate “30 to 45-degree angle,” and “never lifted it over his head.” The Subject stated multiple times, “Kill me.” Officer A believed that the incident may involve “suicide by cop” and his/her thoughts were on the “preservation of life.” Officer A also opined that the Subject was suffering from mental illness. Officers A and B then made the decision to redeploy and moved to the front of the residence to create distance from the Subject. Officer A stated, “I felt like he was going to kill me at that time, and I wasn’t ready to die today.” Officer A believed there was “the potential for this subject killing myself or my partner.” Officer A stated, “The situation was going to escalate to where I could use -- needed to use deadly force.”
- **Officer E** – According to Officer E, officers had “set up in position” when the Subject was in the middle of the street and “started advancing.” Officer E recalled

information that he/she had previously been given regarding the Subject – the Subject had been armed with a rifle during a previous incident, and Officer E stated that the officers “couldn’t see what he had behind him,” so Officer E believed that the incident had come to the “point where deadly force was necessary.” Officer E drew his/her service pistol.

- **Officer G** – According to Officer G, he/she responded to the help call with Officer H. Upon arrival, Officer G deployed a 40mm Less Lethal Launcher (LLL) and slung it because he/she did not know the exact nature of the incident. Officers G and H met with Officers A and B and was advised that the Subject had walked up to the officers carrying a sword which he was waving towards them. Officer G believed the Subject was wanted for “ADW on a PO,” was at an unknown location, but had possibly run into his residence. Officer G was advised that the Subject was in possession of a rifle on a previous incident and that the rifle was inside of his residence. While he/she obtained cover “behind the primary vehicle,” Officer G drew his/her service pistol. Officer G observed that there were several patrol rifles deployed during the incident, holstered his/her service pistol, and deployed his/her 40mm LLL.
- **Officer I – First Occurrence.** According to Officer I, he/she responded to the “help call,” and the comments of the call described a person “armed with a pretty large sword.” Upon arriving to the location, Officer I received information that the Subject was “armed with a rifle” in a prior incident. Officer I believed the situation “could lead to the use of deadly force” and drew his/her service pistol, holding it in a “two-handed grip” with his/her finger along the frame.
- **Officer I – Second Occurrence.** According to Officer I, he/she drew his/her service pistol a second time with his/her finger alongside the frame when he/she approached as part of the arrest team after the Subject “went down.” Officer I stated, the “sword was pretty close” to the Subject and was “lying on the ground.” Officer I stated he/she wanted to keep cover down range until the Subject was handcuffed.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, E, G, and I, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A, B, E, G, and I’s drawing and exhibiting of their service pistols to be In Policy.

Rifle

- **Officer L**

According to Officer L, he/she responded to a “request for a Code Robert [rifle].” Officer L stated that he/she heard broadcasts “put out over the radio and by the airship, you could hear [him/her] saying that the Subject had a rifle.” Officer L believed the incident involved a “superior weapon system” and a “position of advantage.” Officer L removed his/her empty patrol rifle from the rifle bag, inserted a magazine into the magazine well, loaded the patrol rifle, and deployed the patrol rifle.

- **Officer K**

According to Officer K, he/she responded to a “help call” and while continuing to drive to the location he/she heard the airship over the incident broadcasting the Subject’s actions and heard the additional request of a “Code Robert.” Officer K arrived on scene, exited his/her police vehicle, removed his/her rifle from its bag, and “inserted the magazine” into his/her patrol rifle. Sergeant A broadcast the Code Robert request due to his/her knowledge of a previous radio call where the Subject had had access to a rifle.

- **Officer M**

According to Officer M, he/she was at the incident and heard a request for a Code Robert equipped unit. During his/her initial response to the incident, Officer M was aware that the Subject was armed with a sword and was in the middle of the street. During the incident, additional information was relayed indicating that the Subject had a rifle. Officer M stated, “Everyone was gearing up for potentially there being a rifle coming out of that -- that residence.” Officer M retrieved his/her bag which contained his/her unloaded patrol rifle. Officer M met with an officer and Sergeant B and asked where they needed a rifle. Sergeant B directed Officer M to the “northern most portion of that stick of black-and-whites.” Officer M retrieved his/her patrol rifle, inserted a magazine into the magazine well, and loaded the patrol rifle. Officer M deployed his/her patrol rifle and then moved to the driver’s side door of a black and white police vehicle.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers K, L, and M, while faced with similar circumstances, would reasonably believe that there was substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers K, L, and M’s drawing and exhibiting to be In Policy.

C. Lethal Use of Force

- **Officer M** – (rifle, one round)

Background – The OIS incident occurred in the middle of the street. The street was a north/south roadway with a single lane of traffic and vehicles parked along the east and west side of the street. The neighborhood consisted of single-family residences. The OIS occurred during daylight hours at approximately 1215 hours. The environmental conditions were dry with clear skies. Officer M indicated that he/she had a clear path through down the street. There were no cars or anything past the Subject, and that at the end of the street was an empty field, a fence, and a large tree.

According to the FID investigation, at 1215:33 hours, Officer M was positioned behind the driver's side door of a police vehicle and was equipped with his/her patrol rifle. Officer M had a direct and unobstructed view of the Subject as the Subject walked in the middle of the street directly towards the officers. As the Subject closed the distance, Officer M believed the situation was becoming increasingly more dangerous for him/herself and the other officers around him/her. He/she further believed the situation was nearing the point where deadly force may become necessary. When Officer M estimated that the Subject was closing the distance, he/she believed the Subject posed a deadly threat because the Subject was then in a position where he could rapidly reach and strike an officer with the sword. Based on his/her perceptions, Officer M believed the situation had escalated to a deadly force situation. Officer M looked through his/her rifle scope, aimed, and discharged one round at the Subject in a northerly direction from an approximate distance of 77 feet. The Subject was struck by the rifle round on the left side of his chest and fell to the ground landing onto his back.

Officer M verbally stated he/she perceived the Subject to be 20 to 30 feet away when Officer M discharged his/her patrol rifle; however, he/she accurately described the Subject as being near the identified threshold (white SUV) that was approximately 75 feet away. The FID investigation determined that the Subject was approximately 77 feet away at the time Officer M fired.

According to the FID investigation, Officer M stated that he/she did not hear the 40mm LLL announcement or know that it had been fired. An analysis by FID investigators of the audio of the officers' BWV recordings captured the sound of two gunshots which occurred almost simultaneously. FID investigators opined that this was the likely reason that some of the officers on scene were unaware that lethal force had been utilized.

According to Officer M, the Subject "was standing in the middle of the street, waving the sword around, holding it up in the air and then holding it out against his chest and then pointing it at us, and continued to bang on this metal pan or plate of some

kind that he had in his other hand. At that point, he took the sword and he beat his chest and then stabbed the sword into the ground.” The Subject “was continuing to act rather erratically with the sword.” Officer M estimated the Subject’s initial distance to be approximately 50 to 60 feet away. Officer M heard other officers giving the Subject commands to drop the sword.

The Air Unit had been giving commands to the Subject to drop the sword and come down to his knees. The Subject “continued to stand there waving it.” Officer M stated, “It looked to me like a probably two and a half, three-foot long metal sword, curved blade. It was significantly larger than like a knife or even like a basic machete. Like it -- it looked to me like it was a large knife.” Officer M stated that he/she, “disengaged” his/her “safety and turn -- flipped it to fire with my thumb, still maintained my finger along the frame as I got my sights on the Subject with the sword.” Officer M stated that he/she disengaged the safety to his/her patrol rifle, as the Subject walked onto the street holding the sword and began to approach the officers’ location.

According to Officer M, he/she attempted to inquire if there was a “designated cover officer amongst the three patrol rifle officers that were there.” Officer M was not aware a DCO was designated. Officer M declared to the other officers that the Subject was “in a clear line of sight” and that Officer M had a “good shot on him.” Officer M also announced that he/she “had a good background.” Officer M believed that he/she had a “direct line of sight straight up the street,” and that the other patrol rifle officers who were deployed to his/her left and right were positioned with “some houses” in their potential background. Officer M stated that he/she “had a clear path through down the street. There were no cars or anything past the Subject, and that at the end of the street was an empty field, a fence, and a large tree.” Officer M heard a discussion of deploying a 40mm LLL but did not recall ever seeing it or it actually being there. Officer M heard someone state, “Get that 40 up. Get it up here,” but did not hear any statements regarding the actual deployment of the 40mm LLL, such as “less-lethal stand by.” Officer M stated that the Air Unit was hovering “very low” and was “very loud,” due to the location’s proximity to the Hollywood Burbank Airport. Officer M had his/her radio on “full blast.” Due to his/her radio, other officers’ radios, and the air unit, Officer M stated, “It was loud out there.”

According to Officer M, he/she also heard a discussion amongst the senior officers at scene who were next to him/her regarding a “threshold of how far we were going to let this guy advance on us.” Officer M stated that the discussion involved “a white SUV parked to my right, which would have been on the east side of the street approximately, you know, one, two houses ahead of where I was. I remember there being a couple of cars parked behind it. And so I was judging in my own head about that distance. And at the time, I perceived it to be about 20 to 30 feet from where I was standing would be the edge of that white SUV. Based off my training and experience with edged weapons, I know that a Subject can close distance very quickly, especially 20 to 30 feet very quickly within seconds, and that edged weapon

can do a lot of damage to officers or to other victims. So that made sense to me that that (sic) would be a good position of where -- where I -- I wouldn't let the Subject cross to protect myself and my partners from this edged weapon."

Officer M stated that he/she had attended training scenarios where "we simulated edge weapon Subjects coming at us," and had incident debriefs of "officers being charged by Subjects with edged weapons." Officer M stated that he/she was aware "of how quickly that distance can be closed in a matter of a second or two, and so especially someone at a full sprint can close that distance very quickly." Officer M stated, "If [the Subject] had closed any closer distance than that where that white SUV was with that sword, that he could have seriously injured or caused death to me or my partners. Which is why I -- I agreed that that was a point of where I wasn't going to let him come any closer."

According to Officer M, he/she believed that the street the officers were deployed on was "very narrow with cars parked on both sides of the black-and-white, and the black-and-white both car doors open (sic)." He/she stated, "There really wasn't anywhere to redeploy to unless we're going to redeploy into someone's yard or into someone's house. Going backwards wasn't necessarily feasible with as many officers and black-and-whites that were behind us in that tight confined space, which is why I positioned myself behind the -- the cover of the door, because it was kind of best cover I could find where we were -- where we were." Officer M was also concerned that the Subject potentially had access to a rifle and did not want the Subject shooting at residences.

According to Officer M, the Subject was acting "erratically in the street, waving the sword around, and then started to advance. The Subject then walked towards the officers, ignoring commands to stop and to drop the weapon. The Subject then "turned and went back," and had "kicked his shoe off and was going back" for the shoe. After retrieving his shoe, the Subject then "immediately turned around and began advancing on officers again, ignoring commands to stop." Officer M stated, "He didn't seem like he was -- didn't know we were there. He was walking directly at us, continuing to hold the sword up and waving it side to side. As he approached that -- that -- that white SUV, and I was continuing to assess where he was, I felt that his pace was getting faster. I don't know if he was going to burst, charge towards us or whatever, but I perceived that he was getting a quicker pace as he approached us."

Officer M described his/her patrol rifle being equipped with a scope which afforded him/her "four times magnification." Officer M continued to advise officers that he/she had the Subject in his/her sights. Officer M stated that he/she came off of his/her sights to "get that white SUV in my peripherals to see where he was in relation to that car, because when I was on my sights, I couldn't so [sic] that car." Officer M tilted his/her head to the right to assess the Subject's position in relation to the white SUV. Officer M stated that he/she continued to "assess where he (the Subject) was

in relation to where I was and where we had -- had already kind of established where I wasn't going to let him come closer in that 20 to 30-foot range. And then when he got to the where I perceived was the edge of that white SUV, which I perceived was only about, like I said, 20 to 30 feet away from me, I pressed the trigger, put one round downrange." Officer M stated, "I perceived that we were coming to a point that if he got any closer, he could have significantly hurt me and my partners. Or even cause you know, serious bodily injury or death."

Officer M was aiming for center body mass on the Subject. The Subject "immediately fell to the floor." Officer M stated that he/she discharged his/her patrol rifle to defend "myself and my partners from what is now an attack from an edged weapon suspect." Officer M stated, "I believe that if I didn't press the trigger, he would have continued to close that distance, and that there was a real possibility that he could have used that sword to cause serious bodily injuries to my partners and I and possibly even death. Yeah. I mean, a lot of people don't -- don't appreciate the fact that our bulletproof vests don't stop swords. I believe it was imminent." Officer M stated that he/she "held my sights, finger along the frame, to assess that he was down." Officer M then advised officers that the Subject was struck in the right chest.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer M would not reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would not be objectively reasonable and necessary.

The BOPC found Officer M's lethal use of force to be Out of Policy.