

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

**LAW ENFORCEMENT-RELATED INJURY – 025-18**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Foothill	4/12/18		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant B	19 years, 8 months
Officer B	10 years, 9 months
Officer C	3 years
Officer E	4 years, 2 months
Officer F	11 years, 3 months
Officer G	9 years, 3 months
Officer I	10 years, 8 months

**Reason for Police Contact**

Officers responded to a “man with a knife” radio call. The Subject proved to be in possession of a machete and refused to drop it, resulting in the use of multiple less-lethal beanbag shotgun rounds. The Subject was hospitalized as a result of injuries sustained from the use of force.

<b>Suspect</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 36 years old.

**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 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 February 19, 2019.

## **Incident Summary**

This incident began when Officers A and B received an emergency Code-Three, man with a knife, radio call from Communications Division (CD). The officers were in a marked black and white police vehicle with Officer A as the driver. The Person Reporting (PR), described the suspect as wearing a black shirt and black pants, armed with a machete. According to the PR, the Subject appeared homeless and was panhandling and threatening citizens with the machete.

CD inquired whether Officers A and B were beanbag shotgun equipped; they responded in the affirmative. Additionally, per the Department's response protocol for calls involving knives, swords, or edged weapons, CD requested a supervisor to respond. Sergeant A advised CD over the base frequency that he/she was responding and requested an additional unit to be dispatched Code-Three. Officer B then requested an Air Unit to respond and for CD to contact the PR to obtain an updated location of the Subject.

CD broadcast that the Air Unit was grounded, due to wind, and that the PR was no longer at the location.

Officers A and B approached the location, and Officer B notified CD of their status and location (Code-Six) as Officer A turned off the police vehicle's emergency equipment. The officers determined who would take on contact and cover roles and additionally opted for Officer B to be assigned to less-lethal force, entering the parking lot accordingly. The officers observed the Subject, who matched the description provided by the PR, standing near a stand-alone purified water kiosk in the shape of a windmill at the side of the parking lot. With the Subject's back to the officers, Officer A parked the police vehicle facing approximately 19 feet away from the Subject.

Officer A, believing that the Subject was armed due to the information provided by the PR and believing the situation could lead to deadly force, exited the police vehicle, unholstered his/her firearm, and held it in a two-handed, low-ready position. Officer A called out to the Subject, and the Subject turned clockwise, revealing a machete in his right hand. Officer B, who was armed with a beanbag shotgun and standing at the passenger door of the police vehicle, immediately ordered the Subject to put down the machete in English. The Subject did not comply, and Officer A repeated the command in Spanish.

Each utilized beanbag shotgun had an affixed side saddle shell carrier that contained six less-lethal beanbag shotgun rounds.

The Subject continued to ignore both officers' commands, and Officer B requested a backup unit to respond, citing the Subject's failure to cooperate. According to Officer A, as he/she continued to order the Subject to drop the machete, the Subject replied in Spanish, "For what?" Officer A then heard the Subject claim in English that he was a

member of the Central Intelligence Agency (CIA) while he simultaneously displayed a pendant that was attached to the zipper on the bottom of his jacket.

Sergeant A arrived at the scene and parked near the primary unit, facing toward the Subject. Sergeant A exited his/her police vehicle and immediately ensured that the officers were in possession of a beanbag shotgun. Officer A then warned the Subject in English that, if he did not drop the machete, he would be shot with a beanbag and that it would hurt. The Subject replied in English, "You better not beanbag me," and Officer A noted the Subject took a fighting stance. The warning was repeated multiple times by both Officers A and B as well as Sergeant A, but the Subject failed to comply. Sergeant A notified CD of the officers' specific location and reiterated that the Subject was not complying.

Sergeant A instructed Officer B to shoot the Subject with the beanbag shotgun in the event the Subject advanced toward them. As the officers awaited the arrival of back up units, Officer B attempted to de-escalate the situation by conversing with the Subject and assuring him that he/she did not want to hurt him. The Subject refused to drop the machete and was holding it as backup units arrived.

Upon arrival, Officer C, having observed the Subject armed with the machete which could cause serious bodily injury, unholstered his/her firearm and deployed to the left of Officer A, at the drivers' side of his/her (Officer A's) police vehicle and provided lethal cover. Officer D also observed the Subject armed with the machete and after initially retrieving a beanbag shotgun, transitioned to his/her shotgun, and deployed to the driver's side of Sergeant A's police vehicle, in a position to provide lethal coverage.

Officer E observed the Subject armed with the machete and fearing for his/her safety and that of his/her partners, unholstered his/her firearm as he/she deployed to the right of Officer B. Officer E was positioned at the passenger side of his/her police vehicle and provided lethal cover.

Officer F, having been dropped off by Officer G, armed him/herself with a beanbag shotgun and deployed to the passenger side of Sergeant A's vehicle, providing less-lethal cover. Officer G, upon moving his/her vehicle out of the street and into the parking lot, deployed behind Officers A and C. Upon donning gloves, Officer G, having observed the Subject armed with the machete and brandishing it in an aggressive manner towards officers, unholstered his/her firearm and positioned him/herself to the left of Officer C, positioning him/herself to provide lethal cover.

As the aforementioned officers deployed, Officers A and B continued unsuccessfully to have the Subject comply with their commands. Sergeant A, from his/her position close to the officers, observed multiple civilians in the parking lot and began to direct them away from the area. With officers in position, Officer B notified them of his/her intention to fire the beanbag shotgun if the Subject was to move. Officer B then warned the Subject not to take another step toward the officers or he would be shot with the beanbag.

Officers H and I (driver) arrived on scene. Another officer drove close to the location and according to a radio request made by Sergeant A, blocked traffic. Officer I parked his/her police vehicle at the mouth of the driveway, facing the Subject.

After approximately five and one-half minutes of unsuccessfully attempting to get the Subject to drop the machete, Sergeant A announced, "Beanbag ready," and then announced, "... standby, whenever you're ready." Officer B then observed the Subject make a side step and announced, "Beanbag standby," which was repeated by Officer F. As the Subject raised his machete, Officer B fired two less-lethal beanbag rounds at the Subject, and Officer F fired one, striking the Subject on his front and left side torso area.

Officer F described his/her target area as, the Subject's "like, middle torso area."

Officer B then ordered the Subject to put down the machete. The Subject did not comply and began to walk toward the open businesses. In response, Officer B fired an additional four less-lethal beanbag rounds from his/her position and Officer F, at the direction of Sergeant A, fired three more rounds from his/her position. The Subject, having been struck multiple times on the back and front torso area, as well as the upper right leg area, turned and walked between two parked vehicles.

The Subject was wearing multiple layers of clothing including two jackets, a sweater, and two shirts.

Sergeant B, who arrived moments earlier and was close to Officer F, began to direct officers toward the Subject's direction of travel, while ensuring there was no cross fire. Officer I, who had since retrieved his/her beanbag shotgun from the rear cargo area of his/her police vehicle, also deployed on foot.

Since Officers H and I responded upon exiting roll call, they opted to place their beanbag shotgun in the rear cargo area of their police vehicle (sports utility vehicle) as opposed to the shotgun rack.

Officer F, having loaded his/her last two beanbag rounds into his/her shotgun, also followed the Subject on foot. Officer B, who had expended all his/her rounds, retrieved an additional beanbag shotgun from Officer D and trailed behind Officer F as he/she followed the Subject. Sergeant A, along with Officers A, C, and G paralleled the Subject, and then moved to put themselves between the Subject and the open businesses. The officers continued to order the Subject to stop and drop the machete as he continued while yelling to the officers that he had already told them that he worked for the CIA and that he had identified himself.

Meanwhile, Officers B, F, and I fanned out, facing the Subject with Sergeant B close to them. With the Subject nearing the storefronts, Sergeant A instructed officers to get another beanbag and Officer I announced twice, "Beanbag standby, beanbag standby." Officers B, F, and I fired an additional nine less-lethal beanbag rounds at the Subject in

a northwest direction. Officer B stated that he/she, “realized that the beanbags on [the Subject’s] torso were not being affective enough to stop him [the Subject], so I started firing at his legs.”

Officer I fired three rounds, Officer F fired two rounds, and Officer B fired four rounds.

The Subject was struck in the legs with multiple beanbag rounds and went to the ground. The Subject laid on his/her back while still maintaining possession of the machete and began to roll side to side. The officers commanded the Subject to raise his hands and to go to his stomach but the Subject failed to comply. Officer H who was close to the Subject and to the right of Officer I, observed the Subject raise up and feared that he would get to his feet and charge civilians who were standing nearby. In response, Officer H instructed the beanbag shotgun to be deployed again and Officers B and I, each fired one additional less-lethal round at the Subject, striking his lower body. The Subject remained on his back and per Sergeant B, from his/her position close to the Subject, instructed officers to stop.

Simultaneously, the officers deployed, tightening the perimeter on the Subject as multiple officers ordered him to roll onto his stomach and drop the machete. Sergeant B heard multiple officers giving orders and, in an effort, to control the situation stepped closer to the Subject and took over the role of giving him commands. Sergeant B began to order him to raise his hands and demonstrated to the Subject how Sergeant B wanted it done. The Subject did not comply and while holding the bottom of his jacket told Sergeant B, “...this is my identification.”

Sergeant A inquired if Officer B had any more rounds, and Officer B replied that he/she had one more. Sergeant B instructed everyone to, “Hold still,” and then deployed toward the Subject, requesting that commands be given to him in Spanish. Officer C provided commands in Spanish, but the Subject still did not comply and remained lying on his back with the machete in his right hand.

As the commands were being given, Sergeant B took up a position close to the Subject between two parked vehicles. Once there, Sergeant B requested for two officers to join him/her, and Officers C and G responded. Sergeant B had Officer C deploy further away to get a better view of the Subject. Officer C provided lethal coverage as he/she began to converse with the Subject in English. The Subject still refused to raise his hands or go to his stomach, and Officer C informed Sergeant B that the Subject still had the machete next to him. Sergeant B began to converse with the Subject in English and the Subject again displayed an unknown item, attached to his jacket zipper, and, in English, informed Sergeant B that he had already told them who he was, all the while refusing to comply with commands.

Meanwhile, Officer B, having already informed Sergeant A that he/she had one beanbag round remaining, asked if he/she should fire his/her beanbag shotgun again. Sergeant A, fearing the Subject could get up and attack the nearby civilians and realizing it was still unsafe for officers to approach, advised Sergeant B to provide the

Subject with another warning. Sergeant B warned the Subject twice that he would be shot with the beanbag, that it would hurt, and asked if he understood. The Subject did not reply, and Sergeant B continued to request that the Subject roll onto his stomach, but the Subject still did not comply. Approximately three minutes after the last beanbag round had been fired, Officer I announced, "beanbag standby, beanbag standby." Officers B and I then each fired one less-lethal beanbag round at the Subject, striking him on the left outer thigh area.

Prior to the aforementioned rounds being fired, Officer H stated aloud, "Somebody has to hit him with the beanbag again."

The Subject failed to roll onto his stomach and Officer B, who had expended his/her last beanbag round, responded to Sergeant A's vehicle to retrieve an additional beanbag shotgun. Simultaneously, Sergeant B stated, "My concern was at that [...] he was not hurt. He was going to get up. And I thought I can't allow that. If he gets up, now where he is and what's going around us here, my reaction was we had to tactically do something to nullify it now."

Sergeant B, having knowledge of Officer I's past military experience and shooting ability, requested that Officer I join him/her at his/her position close to the Subject. Officer I met with Sergeant B and informed Sergeant B that he/she had one beanbag round remaining. Sergeant B requested that Officer I deploy close to their position and requested that Officer I shoot the Subject on his hand. The Subject then began to claim, multiple times, that he was a Green Beret as Officer I reached his/her position between two parked vehicles. Upon announcing, "beanbag standby, beanbag standby," Officer I fired one final less-lethal beanbag round at the Subject's right hand.

The beanbag round struck the Subject on the back of his right hand, and the Subject released his grip on the machete. As the Subject raised his right hand above his body and rolled onto his right side, Sergeant B directed officers to move in and take the Subject into custody. Officers C, E, and G, who had since holstered their weapons, approached, as did Sergeant B, followed by Officer I. Officers C and I utilized their feet to slide the machete away from the Subject as the Subject was rolled onto his stomach. As Officer C placed his/her right knee on the back of the Subject's right thigh and took control of the Subject's legs, Officers G and E applied body weight to the Subject's upper body. Officer C then, with the assistance of Sergeant B and Officer E, handcuffed the Subject. Once the Subject was handcuffed, Officer C, with the assistance of Officer E, applied a Hobble Restrain Device (HRD) to his legs at the direction of Sergeant B.

In regard to assisting with the handcuffing, Sergeant B stated that as a supervisor his/her role is, "...to step back and direct people," however, he/she observed the Subject's left hand free and because, "I don't know what he's going to do," opted to control the hand until Officer C handcuffed it.

Both Officers C and E stated that the Subject was moving his legs when he was hobbled and that they found it necessary to utilize body weight.

Approximately 11 minutes after the initial Code Six broadcast, Officer A notified CD that the Subject was in custody and requested a Rescue Ambulance (RA) to be dispatched.

Below is an account of each officer's actions, who discharged a beanbag shotgun, and their reasoning for doing so. Additionally, it does not represent the sequence in which the officers discharged their weapons since some of them fired simultaneously:

Officer B was deployed at the passenger side of the police vehicle utilizing the door for cover. According to Officer B, he/she and his/her partner took turns giving commands to the Subject to determine who he would respond to. Both officers instructed the Subject to drop the machete and turn away, but he refused. After warning the Subject multiple times that he would beanbag him if he did not comply, the Subject, "...took a step forward in the officers' direction, and he's kind of waving the machete around and he said, 'You better not beanbag me,' which [Officer B] took to mean that he, you know expected to do something if we - - we did anything against him, including bean bagging him."

Officer B also noted that the Subject would shuffle step, as if he was testing them to see how much he could get away with, and feared the Subject's actions would result in deadly force having to be used against him. Once the Subject took a larger step, coupled with him ignoring the beanbag warnings, Officer B believed the Subject was too close and opted to fire the beanbag shotgun. Officer B's first less-lethal beanbag round struck the Subject, who then flinched and raised his machete. In response, Officer B fired a second less-lethal beanbag round at the Subject, and the Subject immediately started to walk away from the officers. Officer B instructed the Subject to drop the machete and then fired a third and fourth less-lethal beanbag round. Officer B immediately loaded his/her last two rounds into his/her shotgun and instructed the Subject to go to the ground. When the Subject failed to comply, Officer B fired a fifth and sixth less-lethal beanbag round. Officer B stated he/she aimed all six shots at the Subject's waist area and estimated they were from an increasing distance, ranging from eight to 35 feet. Officer B further explained that he/she fired all six rounds because, "The issue was [the Subject] was going in the direction of spectators," and added "...there really was no escape for them."

Once Officer B retrieved a second beanbag shotgun, he/she followed the Subject, who was now nearing the storefronts. Officer B feared, "...if he got much further, closer to the civilians that he was going to be killed. They were going to have to shoot him because with the machete, with his actions we couldn't afford to have him approach the unarmed citizens who were there." Realizing the placement of the previous rounds were not effective enough to stop the Subject, Officer B redirected his/her aim at the Subject's left leg and fired four additional less-lethal rounds. The Subject went to the ground, and Officer B noted that the Subject still had not dropped the machete. Officer B fired one additional less-lethal round at the Subject, again aiming at his left leg.

Officer B estimated these last five rounds were fired from a decreasing distance of approximately 25 to 30 feet.

Officer B deployed to where he/she relayed to Sergeant A that he/she had one round remaining. The Subject failed to comply with commands being given, and Officer B asked if he/she should fire his/her last round because, "...I felt he was still a serious threat. He's got a machete. It doesn't take more than one or two seconds to get up on his feet and he's right back in action." After the Subject was given another beanbag warning and failed to comply, Officer B heard Officer I announce, "beanbag ready," and Officer B fired one last round at the Subject, aiming at his legs. Officer B estimated this last shot was fired from approximately 25 to 30 feet. This last round was fired approximately three minutes after Officer B had fired his/her previous (11th round) one.

Officer F was deployed at the passenger side of Sergeant A's police vehicle utilizing the door for cover. From his/her position, Officer F observed the Subject agitated, in possession of a machete and refusing to comply with the officers' orders. Although the Subject was conversing with officers, heavy wind was present and Officer F was unable to determine the nature of the conversation. According to Officer F, the Subject was, "...moving aggressively with the machete, kind of waving it around a little bit. He began to kind of walk towards some of the officers." Officer F then heard the command to ready the beanbag and then a command for beanbags to standby. To assure that officers to his/her right heard the order, Officer F announced "beanbag standby" and then, believing the Subject, "...could have either advanced on officers and used that [machete] on officers or could have started going into a place of business or approaching customers in these parking lots and creating some kind of a deadly situation with that," fired one less-lethal beanbag round at the Subject.

As Officer F assessed, the Subject began walking toward the open businesses. Sergeant A called out, "Next beanbag," and Officer F fired a second and then a third less-lethal beanbag round before commanding the Subject to, "Get down on the ground, now." The Subject continued to walk toward the open businesses, and Officer F fired a fourth less-lethal beanbag round from his/her position behind the passenger door. Officer F estimated that he/she fired the four rounds from an increasing distance of approximately 25 to 30 feet, to 35 to 40 feet, aiming his/her first two rounds at the Subject's middle torso area and the next two at his lower buttock area.

Officer F followed the Subject on foot as the Subject walked toward the storefronts. Officer F notified officers on scene that he/she still possessed two to three rounds and then commanded the Subject to get down on the ground. The Subject failed to comply and continued toward the open businesses. As Officer I announced, "beanbag standby," Officer F fired a fifth and sixth less-lethal beanbag round at the Subject, aiming at his lower torso area. Officer F estimated these last two rounds were fired from an approximate distance of 15 to 20 feet.

Officer F then, observing the Subject still armed, slung his/her shotgun and unholstered his/her firearm to provide additional lethal coverage from his/her position. While holding



his/her firearm at a low-ready position, Officer F assisted in tactically deploying officers who were in possession of lethal and less-lethal munitions.

Officer I arrived on scene and observed the Subject pointing a machete toward the officers. Officer I then heard beanbag rounds being fired and observed the Subject walking towards civilians. Officer I retrieved his/her beanbag shotgun and approached the Subject on foot as he/she neared the storefronts. Officer I deployed towards Officers B and F and announced, "Beanbag standby, beanbag standby." Officer I then, "...in fear that he [the Subject] was going to get inside of the, any of those businesses and cause serious bodily injury with that machete." Officer I fired three less-lethal beanbag rounds at the Subject, assessing between each round. Officer I did not provide the Subject with a warning prior to firing his/her beanbag shotgun and cited the Subject's actions and the immediate threat to civilians.

The Subject went to the ground on his/her back, and Officer I commanded him/her to go to his/her stomach. The Subject failed to comply and according to Officer I, began to get up and, "...in fear that he might again try to get to the business and, and hurt somebody with that machete," Officer I fired a fourth round at the Subject. Officer I estimated the four rounds were fired from an approximate distance of 15 to 17 feet, and stated he/she aimed at the Subject's stomach, because the Subject was wearing a jacket.

Officer I loaded his/her last two rounds and deployed close to the Subject's location. When Officer F became aware that Officer I still possessed two rounds, Officer F had Officer I move to where Sergeant A was deployed. Officer I immediately positioned him/herself close to Sergeant A and notified Sergeant A that he/she had two less-lethal rounds remaining. With the Subject not cooperating, Officer B, who was close to Sergeant A, asked Sergeant A if he/she should shoot the Subject with another beanbag round. In response, Sergeant A instructed Sergeant B to provide the Subject with another warning, which Sergeant B did. When the Subject still did not comply, Officer I announced, "Beanbag standby," and then, "...in an attempt to, attempt for him to let go of the machete," fired a fifth less-lethal beanbag round at the Subject. Officer I estimated that this round was fired from an approximate distance of eight to ten feet, and stated he/she aimed at the Subject's stomach.

Officer I then deployed to Sergeant B's position where Officer I informed Sergeant B that he/she had one beanbag round remaining, and Sergeant B directed Officer I to shoot the Subject on the hand. Officer I deployed to a position directly across from the Subject and announced twice, "Beanbag standby." Officer I then fired a sixth less-lethal beanbag round at the Subject, aiming at his right hand, striking it. Officer I then ordered the Subject multiple times to let go of the machete, and the Subject finally complied and was taken into custody. Officer I estimated that his/her final round was fired from an approximate distance of five to seven feet.

While waiting for the RA to arrive, Sergeant B telephonically notified the Watch Commander of the incident. The Watch Commander later assigned the investigative

responsibility to Sergeant C and instructed him/her to handle the incident as a Non-Categorical Use of Force (UOF).

A Los Angeles Fire Department (LAFD) Engine arrived on scene and treated the Subject for lacerations to his right and left hands. An LAFD RA arrived on scene and transported the Subject to a local hospital. Officer D rode in the RA as his/her partner, Officer C, followed behind.

The Subject was uncooperative with hospital personnel, and they sedated him so they could render medical attention. Per hospital policy, once a patient is sedated, the patient must be intubated and then admitted. In addition to the injuries (welts) received from being struck with multiple beanbag rounds, the Subject had three additional visible injuries. The first was a laceration to the back of his right hand where the last beanbag round had struck. The second was a laceration and infection to the left 5th (pinky) finger, and the third was a contusion above his right eye.

Medical Reports identified the injury to the left finger as pre-existing and found it necessary to cut off a ring to treat it. Upon review of the video recordings which captured the incident, investigators were unable to determine how the Subject sustained the injury to his forehead.

Force Investigation Division (FID) was notified and recommended the incident continue to be handled as a Non-Categorical UOF unless further information regarding the Subject's injuries deemed otherwise. Sergeant C, who was assigned the investigation, then responded to the arrest scene and to the hospital where he/she photographed the Subject's injuries. Upon receiving additional information regarding the Subject's injuries, and that he had been admitted, FID responded to the police station and to the hospital, to conduct an assessment.

FID concluded that the incident fit the criteria of a Law Enforcement Related Injury (LERI) and that it would be handled as a Categorical Use of Force (CUOF). Real-Time Analysis and Critical Response (RACR) Division was notified.

FID reviewed all documents and circumstances surrounding the separation and admonition not to discuss the incident prior to being interviewed by FID investigators. Once the case was deemed to be a CUOF, all protocols were followed and properly documented.

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

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

## **A. Tactics**

- The BOPC found Sergeants A and B, along with Officers A, B, C, E, F, G, and I's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

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

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

- The BOPC found Sergeant B, along with Officers C, E, and G's (first application) non-lethal use of force to be In Policy. The BOPC found Officer G's second application of non-lethal use of force to be Out of Policy.

## **D. Less-Lethal Use of Force**

- The BOPC found Officers B, F, and I'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. 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 value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where Palencia’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force.

(Use of Force Policy, Los Angeles Police Department Manual.)

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.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:

### **1. Utilization of Cover**

Sergeant B, along with Officers B, E, F, and I, did not utilize cover while standing in the parking lot, giving commands to a suspect armed with a machete.

The utilization of cover enables officers to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, as the Subject moved through the parking lot, Sergeant B, along with Officers B, E, F, and I moved away from cover, through the open parking lot. The Subject's direction of travel caused the officers to have to redeploy to areas with limited cover. Had the officers utilized the parked vehicles in the immediate area, they could have potentially created a crossfire situation or have been too far away from the Subject for the beanbag rounds to have been effective due to the strong winds. The officers identified the lack of cover afforded to them by the Subject's position in the parking lot and repositioned a police vehicle to utilize the doors for cover.

The BOPC would have preferred for the officers to maintain a position of tactical advantage by utilizing cover. The use of cover often results in officers being able to utilize various options as well as providing them with more time to make decisions in the event the suspect presents an imminent threat of death or serious bodily injury. However, the BOPC understood that this situation was fluid and rapidly evolving and that the suspect's actions and movement dictated the officers' movement away from cover. Department personnel are expected to be flexible and continually assess their circumstances. In this case, the supervisor and officers recognized that they would benefit from cover and moved a police vehicle into a position where it could be used for cover.

Based on the totality of the circumstances, the BOPC determined that Sergeant B's, along with Officers B, F, I and E's actions were not a substantial deviation from approved Department tactical training.

## **2. Tactical Communication/Planning**

Sergeants A and B did not effectively communicate with one another to formulate a coordinated tactical plan during the incident.

Operational success is based on the ability of the officers to effectively communicate during critical incidents. The officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, both sergeants individually communicated effectively with and directed officers at scene, monitored for potential crossfire issues, and ensured that use of force warnings were given to reduce the potential of contagious fire.

However, Sergeants A and B did not effectively communicate with one another to develop a plan to gain the Subject's compliance, control the number of officers deploying lethal force options, or formulate a contact team to take the Subject into custody. Although this was a rapidly evolving situation, the BOPC would have preferred the sergeants take the time to plan a coordinated effort to take the Subject into custody.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, Sergeants A and B's actions were not a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:

### **1. Contact and Cover**

The investigation revealed Officer B's belief that Officer A was the lethal cover officer. Officer A believed he/she was assigned as both the contact and lethal cover officer. The officers were reminded to utilize the concept of contact and cover, during which one officer initiates contact while the other officer provides cover.

### **2. Beanbag Shotgun Manipulations**

The investigation revealed that Officer B chambered a round in his/her beanbag shotgun while he/she was still seated inside his/her police vehicle and responding to the radio call. Officer B was reminded that chambering a round in a moving vehicle may lead to an unintentional discharge of the shotgun.

Officer F inadvertently ejected a beanbag sock round onto the ground while conducting a chamber check. Officer B was reminded of the importance of proper weapons manipulations during a critical incident.

### **3. Tactical Vehicle Deployment**

The investigation revealed that Officer A parked the police vehicle approximately 19 feet away from the Subject upon the officers' initial contact with the Subject. The BOPC would have preferred that the officer had placed the police vehicle further away from the Subject, who was armed with a machete, in order to give the officers additional time and distance to assess his actions.

### **4. Non-Conflicting Simultaneous Commands**

The investigation revealed that the sergeants and several officers were giving simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers were reminded that simultaneous commands sometimes lead to confusion and non-compliance.

## **Command and Control**

- In reviewing this incident, the BOPC acknowledged the supervisors' overall effectiveness in directing the officers, resulting in the achievement of the Department's goal of preservation of and reverence for human life.

Sergeant A arrived at the scene and verified that officers were assigned lethal and less-lethal cover. Sergeant A effectively communicated with Officer B and directed Officer B to fire the beanbag shotgun at the Subject if the Subject advanced toward him/her. Additionally, Sergeant A monitored the situation for potential crossfire issues and ensured that numerous verbal warnings were given.

Sergeant B arrived at the scene and effectively communicated with the officers, directing them towards the Subject as the Subject walked through the parking lot. Sergeant B ensured that the officers gave commands to the Subject in both English and Spanish. Additionally, Sergeant B directed Officer I to discharge the beanbag shotgun at the hand that the Subject was holding the machete in, directed the arrest team to approach and take the Subject into custody, but Sergeant B also directed the application of the HRD.

Although this was a rapidly unfolding situation, neither sergeant declared him/herself as the Incident Commander (IC) upon their arrival. This led to no clear transfer of command between Sergeant A, whom was already at scene, and Sergeant B, who arrived and began directing officers.

Although both sergeants individually took command and control of the incident, they did not effectively communicate with one another to formulate a plan to gain the Subject's compliance, control the number of designated lethal and less-lethal officers or form a contact team to take the Subject into custody.

In addition, Sergeant B physically involved him/herself when taking the Subject into custody, thus limiting his/her ability provide oversight of the incident. The BOPC would have preferred that Sergeant B maintain a supervisory role and not physically involve him/herself in the incident.

While identified as an area for improvement, Sergeants A and B's actions were not a substantial deviation from approved Department tactical training.

The BOPC found Sergeants A and B, along with Officers A, B, C, E, F, G, and I's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, based on the comments of the call, the suspect was armed with a machete. As he/she exited his/her police vehicle, Officer A drew his/her service pistol and assumed a position of cover behind his/her passenger door.

- According to Officer C, he/she observed the Subject holding a machete in his right hand. Fearing the weapon could cause serious bodily injury or death to him/herself or other officers, Officer C drew his/her service pistol.
- According to Officer E, he/she arrived at scene and observed the Subject armed with a machete. Officer E feared for his/her safety and drew his/her service pistol.
- According to Officer F, he/she knew his/her beanbag shotgun was empty so he/she slung it and drew his/her service pistol because he/she believed the situation could still escalate to one involving the use of deadly force since the Subject was still armed with the machete.
- According to Officer G, immediately upon his/her arrival, heshe drew his/her service pistol, when he/she observed the Subject holding a machete in his/her right hand and brandishing it in an aggressive manner.
- Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, C, E, F, and G, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A, C, E, F, and G's drawing and exhibiting of a firearm to be In Policy.

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

- **Officer G – Body weight, Physical Force, and Firm Grip**

According to Officer G, during the handcuffing process, he/she used his/her body weight, physical force, and a firm grip to control the Subject's movements.

#### **Second Application of Firm Grip**

According to Officer G, while conducting a search of the Subject, he/she reached to grab the Subject's shoulder area, but grabbed the Subject's hair instead.

- **Officer C – Body weight**

During the handcuffing process, Officer C used his/her body weight to control the Subject's legs.

- **Sergeant B – Firm Grip and Physical Force**

Sergeant B assisted with taking the Subject into custody because Sergeant B saw that the officers were struggling to handcuff the Subject. While the Subject was on



the ground, Sergeant B used a firm grip and physical force to control the Subject's arm so officers could handcuff him.

- **Officer E – Firm Grip and Body weight**

During the handcuffing process, Officer E utilized his/her body weight to control the Subject's legs so that the HRD could be applied.

- Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant B, along with Officers G (first application), C and E, while faced with similar circumstances, would believe that this same application of non-lethal force would be reasonable to overcome the Subject's resistance while taking him into custody

Therefore, the BOPC found Sergeant B's, along with Officers C, E, and G 's (first application) non-lethal use of force to be objectively reasonable and In Policy.

However, the BOPC determined that the Subject was not actively resisting or attempting to flee at the time Officer G grabbed and pulled the Subject's hair. An officer with similar training and experience as Officer G, while faced with similar circumstances, would not believe that Officer G's second application of non-lethal force would be reasonable.

Therefore, the BOPC found Officer G's second application of non-lethal use of force to be unreasonable and Out of Policy.

#### **D. Less-Lethal Use of Force**

- **Officer B – Beanbag shotgun, twelve beanbag sock rounds**

##### **First Sequence – Six beanbag sock rounds**

According to Officer B, the Subject failed to comply with commands to drop the machete. When the Subject took a step towards Officer B, Officer B fired two beanbag sock rounds at the Subject to stop his actions. Officer B fired four additional beanbag sock rounds at the Subject to stop his actions when the Subject turned and began walking in the direction of bystanders while armed with the machete.

##### **Second Sequence – Six beanbag sock rounds**

Officer B then retrieved another beanbag shotgun and ran towards the Subject, who was still armed with the machete. The Subject was walking toward bystanders who were standing near the corner of the mall. Officer B believed that the first six beanbag sock rounds that he/she fired at the Subject's torso were not completely effective, so he/she fired four additional beanbag sock rounds at the Subject's legs

causing him to fall to the ground, but not drop the machete. Officer B fired two additional sock rounds at the Subject to get him to drop the machete because Officer B feared that the Subject would get back up.

- **Officer F – Beanbag shotgun, six beanbag sock rounds**

**First Sequence – Four beanbag sock rounds**

According to Officer F, the Subject was moving and waving the machete in an aggressive manner. The Subject then began walking toward the occupied businesses, ignoring commands by officers to get down on the ground and drop the machete. Officer F feared the Subject would advance and use the machete on officers or bystanders in the area so he/she fired four beanbag sock rounds at the Subject.

**Second Sequence – Two beanbag sock rounds**

According to Officer F, the Subject was still armed with the machete as he walked toward open businesses. Officer F redeployed to a position of cover, closer to the Subject. Fearing for the safety of the occupants of the businesses, Officer F fired two beanbag sock rounds at the Subject's lower torso area to stop his movement.

- **Officer I – Beanbag shotgun, six beanbag sock rounds**

**First Sequence – Four beanbag sock rounds**

According to Officer I, he/she observed the Subject holding a large machete and waving it aggressively. The Subject then began moving toward the shopping center while still armed with the machete. Fearing for the safety of the public, Officer I fired three beanbag sock rounds at the Subject's abdomen area to stop his movement.

After Officer I fired his/her third beanbag sock round, the Subject fell to the ground and then began to get up again while holding the machete. Officer I feared the Subject would attempt to get to the businesses and hurt somebody with the machete, so he/she fired a fourth beanbag sock round to stop the Subject's actions.

**Second Sequence – One beanbag sock round**

According to Officer I, he/she redeployed to a position of cover, closer to the Subject. The Subject refused to follow commands to let go of the machete. Officer I believed the Subject was beginning to recover from the previous rounds and was unsafe to approach. Officer I fired his/her fifth beanbag sock round at the Subject's abdomen in an attempt to get him to drop the machete.

### **Third Sequence – One beanbag sock round**

According to Officer I, he/she was directed to redeploy around a vehicle by Sergeant B. Sergeant B also directed Officer I to shoot the beanbag shotgun at the Subject's hand, which was holding the machete. Officer I yelled, "Beanbag, stand by," and fired a beanbag sock round at the Subject's right hand, which was holding the machete.

- Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B, F, and I, while faced with similar circumstances, would have believed that the application of less-lethal force options to stop the Subject's actions were objectively reasonable.

Therefore, the BOPC found Officers B, F, and I's less-lethal use of force to be objectively reasonable and In Policy.