

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

**OFFICER-INVOLVED SHOOTING - 057- 05**

<b>Division</b>	<b>Date</b>	<b>Duty-On(x) Off( )</b>	<b>Uniform-Yes(x) No(x)</b>
Southeast	07/10/2005		

<b>Involved Officer(s)</b>	<b>Length of Service</b>
Lieutenant A	28 years, 11 months
Lieutenant B	33 years, 11 months
Sergeant A	10 years, 8 months
Sergeant D	28 years, 4 months
Sergeant E	27 years, 4 months
Sergeant F	9 years, 8 months
Sergeant G	9 years, 9 months
Officer A	1 year, 11 months
Officer B	1 years, 11 months
Officer G	8 years, 8 months
Officer H	22 years, 10 months
Officer I	16 years, 4 months
Officer L	7 years, 8 months
Officer M	5 years, 5 months
Officer N	16 years
Officer O	9 years, 4 months
Officer P	9 years
Officer R	5 years, 2 months
Officer S	8 years, 6 months
Officer T	1 year, 11 months
Officer U	3 years, 4 months
Officer V	15 years, 7 months
Officer W	17 years, 11 months
Officer X	15 years, 8 months
Officer Y	11 years, 8 months
Officer D1	17 years, 2 months
Officer E1	11 years, 7 months
Officer F1	16 years, 9 months
Officer G1	12 years, 2 months
Officer H1	26 years, 4 months
Officer M1	16 years, 2 months

**Reason for Police Contact**

“Unknown Trouble” radio call.

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

Subject 1: Male, 34 years.

### **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 suspect 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on November 28, 2006.

### **Incident Summary**

At 3:44 P.M. on Sunday, July 10, 2005, Victim A made a 911 call from a used car sales lot in Southeast Los Angeles. Victim A told the operator that her stepfather, Subject 1, was "harassing" and "threatening" her.<sup>1</sup> She then told the operator that Subject 1 was leaving. The operator asked if Victim A still needed the police, and Victim A replied that she did because Subject 1 had said he was "going to take [Victim A] with him, far." Victim A stated that she was going to go to their home.<sup>2</sup> She also indicated that she would wait for the police to respond.

A non-coded radio call was generated in response to Victim A's 911 call. At 3:47 P.M., the call was assigned to Officers A and B. Meanwhile, Subject 1 went to his home and took Victim B, from Witness A, the common-law wife of Subject 1. Subject 1 told Witness A that today he was going to die and took Victim B with him back to the lot.

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<sup>1</sup> Victim A was the stepdaughter of Subject 1, the daughter of Witness A, and the sister of Victim B, a 19 month old infant. Victim A was 16 years old at the time of this incident.

<sup>2</sup>The used car lot was operated by Subject 1. The lot faced west, onto on a north-south boulevard ("Boulevard"), and consisted of open areas to the west, east and north, where numerous vehicles were parked. There was a building at the south side of the lot, which contained a small office with a west-facing window. The building had entrances on both its east and west sides. The lot was surrounded by an approximately six-foot high iron fence, with sliding iron gates front and back. A north-south alleyway was at the rear (east) side of the location. The location was equipped with nine surveillance cameras which were viewable via a computer located in the office and provided views of the north, east and west sides of the location, in addition to a partial view of the interior of the building. The lot was less than one block away from the home of Victims A and B, Subject 1, and Witness A.

Witness A believed Subject 1 was joking, but after Witness A thought about it for a few moments, she left her home to get Victim B back from Subject 1.

Shortly thereafter, Subject 1 told Witness B to close and lock the sliding iron gate on the Boulevard side of the lot. At this time, Witness B saw Subject 1 loading a pistol. According to Witness B, Subject 1 had two handguns. Once the gate was closed, Subject 1 told Witness B that he would kill Witness B if he re-opened the gate. Witness B also reported that Subject 1 told him, "My end has come," and, "You're going to stay here with me shooting. If I see you leave I'm going to shoot you."<sup>3</sup>

Within minutes, Victim A called 911 from the lot office. The call was cut short when Subject 1 pulled the telephone cord out of the wall. The non-coded radio call generated following Victim A's first 911 call was upgraded to a Code-3 "Unknown Trouble" call. Communications Division ("CD") updated Officers A and B. Meanwhile, Victim A called 911 from a cellular telephone and was connected to a California Highway Patrol ("CHP") operator. Victim A told the operator that a "crazy man" would not let her go. The call was transferred to CD. During the transfer, Victim A terminated her call. The CD operator called Victim A back on the cellular phone. Victim A told the operator that the crazy man was harassing her, would not let her go, and had said he was going to kill her. Subject 1 then took the telephone from Victim A and broke it.

Victim A then left the office and waited inside the fence on the Boulevard side of the lot for the police. Officers A and B arrived and Victim A flagged them down. The officers broadcast that they were on the scene. The officers stopped their vehicle in front of the location. Victim A, who was separated from the officers by the fence, told them that the gate was locked; her stepfather (Subject 1) had a 9mm handgun, had threatened to kill her if she called the police, and was holding a child (Victim B). Victim A also told the officers that there was at least one additional person on the premises. Both officers drew their pistols and Officer B broadcast a request for "an additional unit and a supervisor for a possible 415 man with a gun." In response, Sergeant A indicated that he would respond.

As Officers A and B were waiting for the additional officers to arrive, they were approached by Witness A. Witness A showed the officers a copy of a Terrorist Threats report she had made earlier that day. The report named Subject 1 as the suspect. According to Witness A, she told the officers not to shoot because her daughter was inside. Witness A then returned home. Witness A would later speak with Subject 1 in an effort to resolve the situation.

Subject 1 came out of the office holding Victim B. Officers A and B asked him to come over toward them. Officer B asked Subject 1 if he had a gun. As Subject 1 moved around in the lot, Officer A moved to a position behind a utility pole in front of the lot.

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<sup>3</sup> Witness B, an employee of Subject 1, and a second male, whom Witness B identified as "Pariente," were inside the lot during a portion of this incident following the initial police response. Both Witness B and Pariente escaped from the lot prior to the conclusion of the incident.

Officer B then upgraded his “additional unit” request to a request for “back-up.” Very soon thereafter, Officers C and D arrived, parking their vehicle in front of the lot, just north of Officers A and B’s vehicle. Subject 1 went back inside the office. Officers C and D redeployed on foot to the alley at the rear of the lot.

Officers E and F then arrived on the scene and broadcast a request for two additional units. Officer F joined Officers C and D in the alley at the rear of the lot while Officer E took a position on the Boulevard, south of the lot. Meanwhile, Officer G and Detective A, who were transporting witnesses, arrived close to the scene. Detective A waited in the police vehicle with the witnesses, out of sight of the incident location. Officer G joined the officers positioned in the alley at the rear of the lot.<sup>4</sup>

An Air unit crewed by Officers H and I subsequently arrived over the location.

Shortly thereafter, Subject 1 appeared at the door of the office holding Victim B in his right arm. Subject 1 raised a 9mm semi-automatic pistol in the direction of Victim A and Officer B and fired in their direction. Victim A and Officer B both took cover behind parked cars. Meanwhile, Officer A took a kneeling position behind the utility pole and, using his Beretta 9mm pistol, fired one round at Subject 1 from a distance of approximately 70 feet. The round did not strike Subject 1 or Victim B.<sup>5</sup>

Officer B broadcast that shots were fired and the Air unit made a “Shots fired, officer needs help” broadcast.

From their position in the alley, at the southeastern corner of the lot, Officers C, D, F and G could not see Subject 1 when he fired. Upon hearing the gunfire, Officer G stepped northward in the alley to see where the shots were coming from. According to Officer G, he saw Subject 1 pointing a handgun in a southwesterly direction and heard additional shots. Using his Glock .45 caliber pistol, Officer G fired two rounds at Subject 1 from a distance of approximately 72 feet, then moved south and fired an additional four rounds from a distance of approximately 65 feet. Officer G fired these rounds in defense of the officers at the front of the location.<sup>6</sup> The rounds did not strike Subject 1.

The Air unit then broadcast a warning to the officers on the ground to “watch the crossfire,” advising that there were units at the front and the rear of the location.

In the interim, Officers J and K responded and positioned their police vehicle in the alley, at the southeast corner of the lot. Officer K armed himself with a shotgun and took cover behind the police vehicle. Officer G took a position behind the engine block of the police vehicle.

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<sup>4</sup> Officer G was dressed in plain clothes and was not wearing body armor. Detective A ultimately left the scene and transported the witnesses. Detective A had no further involvement in the incident.

<sup>5</sup> According to Officer A, when he fired he could not see Victim B, and his view of Subject 1 was partially obscured. Officer B stated that he did not fire because he saw that Subject 1 was holding Victim B.

<sup>6</sup> According to Officer G, he was unaware of the presence of Victim B when he fired the six rounds

The Air unit then broadcast a request for Urban Police Rifle (UPR) equipped officers to respond to the incident location.

Sergeant A, who had responded to the alley, broadcast a confirmation that a young child was still inside the location. Officer G then moved north in the alley, leaving the cover of the police vehicle. According to Officer G, he did so “hoping he could get a shot.” Subject 1, holding Victim B, emerged from the door of the office and fired toward Officer G. Officer G then retreated back to the police vehicle and Subject 1 went back inside the office.

Soon thereafter, the Air unit notified Metropolitan Division, “Heads up. Officer needs help, shots fired, active shooter...with a hostage.” Metropolitan Division confirmed that Special Weapons and Tactics (“SWAT”) officers were being notified. Officer G briefly left the cover of the police vehicle and moved north in the alley.

Officer L, who was armed with a UPR, responded to the location and went to the rear alley. Officer L deployed behind the police vehicle, to the left of Officer G.

Officers M, N, O, P, Q, R, S, T and U heard the help call and responded to the scene.

Officer M arrived on scene. Officer M took a position behind Officers C and D’s police vehicle on the Boulevard, at the front of the lot. Officer M was subsequently joined by Officers N, O, P, R, S, T and U. Officers M, N, O and P were each equipped with UPRs. Officer M formulated a plan to initiate an Immediate Action Rapid Deployment (IARD),<sup>7</sup> whereby Officer M would move in “diamond formation,” accompanied by Officers N, O and P, to effect a rescue of Victim A, who was still trapped behind the fence at the southwest corner of the lot. The plan called for Officers R and S to move behind the cover of the diamond formation, cut the lock on the gate and rescue Victim A. Officers T and U, both of whom were armed with pistols, indicated that their role in the rescue effort was to provide cover.

Subject 1 then fired from within the office, striking a vehicle parked in the southwest portion of the lot.

Officers M, N, O, P, R, S, T and U later began to move in a southeasterly direction, leaving the cover of Officers C and D’s police vehicle.<sup>8</sup>

As soon as the officers initiated their movement, Subject 1 began to fire at them from the window of the office. The group of officers immediately scattered to the cover of nearby police vehicles. As he moved toward the cover of Officers A and B’s police vehicle, Officer P lost his footing and stumbled to the ground.

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<sup>7</sup> IARD is defined by Department training as, “The swift and immediate deployment of law enforcement resources to ongoing, life threatening situations where delayed deployment could otherwise result in death or serious bodily injury to innocent persons.”

<sup>8</sup> Although the plan reportedly involved the use of a “diamond formation,” video evidence shows that the officers moved in a loosely formed line.

Officers M and N both saw muzzle flash and glass flying from the office window. Both of these officers fired at the window as they moved to cover. Officer M believed that Officer M fired two bursts of two to three rounds, and Officer N believed he fired six or seven rounds. According to Officer O, he saw muzzle flash and fired six or seven times toward the muzzle flash as he moved back to the cover of Officers C and D's police vehicle.

Once in their positions of cover, Officers M, N and O fired additional rounds in response to a further volley of gunfire. According to Officer M, this further volley sounded like a "shoulder weapon" (as distinct from Subject 1's initial pistol fire).

At about the same time, from their positions in the rear alley, Officer G fired two additional rounds from his pistol and Officer L fired 11 rounds from his UPR. The officers' rounds struck the exterior walls of the office where Subject 1 and Victim B were located.<sup>9</sup>

Officer M instructed officers to "cease fire" and reminded officers to be sure of their target.

Erroneously believing that the rifle fire had come from Subject 1, Sergeant A broadcast a warning that the suspect had armed himself with a "high-powered weapon."

Officer S moved from his position behind Officers A and B's police vehicle, toward Victim A's location. Officer S stood up to cut the lock on the gate, was shot at by Subject 1 from within the office, and abandoned his attempt.

Metropolitan Division K-9 Sergeant B and Officer V; and Metropolitan Division SWAT Officers W, X and Y, arrived on the scene.

Officers S, V, W and X made a northbound approach to the southwest corner of the lot, pried the gate off its tracks, and rescued Victim A by pulling her to safety. Officer W then directed that Victim A be debriefed.<sup>10</sup>

Officers Z and A1 shortly afterward responded to Witness A's home to speak with Witness A and gather intelligence. The officers found Witness A speaking on the

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<sup>9</sup> Both Officers L and G reported that they fired at Subject 1 when they saw him firing in their direction from the door of the office. Based on video and other evidence, investigators established that, at the time the officers fired, the door to the office remained closed and Subject 1 did not in fact present himself to Officers L and G. Rather, Officers G and L were apparently firing in response to the "friendly fire" coming west-to-east from Officers M, N and O. For their part, the evidence indicates that the volley of gunfire to which Officers M, N and O returned fire from their positions of cover was "friendly fire" from the officers in the alley. A total of approximately 48 rounds were fired by Officers M, N, O, L and G during this exchange. None of the rounds struck anyone.

<sup>10</sup> Prior to initiating the rescue, Officer W told a supervisor at the scene that his officers would be designated shooters, and that the supervisor's officers should hold their fire if anything happened during the rescue.

telephone with Subject 1. Witness A was crying and begging Subject 1 not to do anything to Victim B.

Officer A1 asked Witness A if he could speak to Subject 1 and Witness A passed the telephone to him. According to Officer A1, Subject 1 was rambling and delusional. Subject 1 made numerous statements to Officer A1. These included statements that he was the fictional character Tony Montana;<sup>11</sup> that he was going to kill police officers; that he would come out shooting, holding the baby; that he was going to hell with the baby; that he would kill himself and the baby; that he had military and police experience and knew how to use weapons; that he had been drinking and using drugs; that he was armed with two 9mm weapons and a shotgun; and that he could see officers via his cameras and would come out shooting if the cameras were damaged. Officer A1, who found it “real hard to get in a word,” repeatedly told Subject 1 that he had not hurt anyone and that everything would be okay.<sup>12</sup>

Officer A1 was joined by Officer B1, a Crisis Negotiator. Officer B1 did not speak Spanish, so he advised Officer A1 to give Subject 1 reassurance.

Sergeant C (assigned as the Crisis Negotiations supervisor) and Officer C1, a Spanish-speaking Crisis Negotiator, arrived at Witness A’s home. Officer B1 briefed Officer C1, and Officer C1 took over negotiations from Officer A1.

According to Officer C1, Subject 1 was highly agitated and would talk continually. Subject 1 told Officer C1 that he wanted food from McDonald’s, that he wanted Witness A to come in and feed Victim B “for the last time,” and that he would not hurt Witness A. Subject 1 also told Officer C1 that he could see officers moving the gate and that he would kill anyone who came inside. Officer C1 attempted to reassure Subject 1 that the goal of the police officers was to resolve the situation peacefully. After about ten minutes of conversation, the call was terminated. Officer C1 made attempts to call back, but to no avail.

During the time negotiations were occurring, additional SWAT officers arrived at the scene. SWAT’s response to this incident included attendance at the scene by Lieutenant B, Sergeants D and E, and Officers W, X, Y, D1, E1, F1, G1, H1, I1, J1, K1 and L1.<sup>13</sup>

Officer W, whose responsibilities included tactical planning, was one of the first SWAT officers to arrive at the incident. Having participated in the rescue of Victim A, Officer W went to the rear alley with Officers X and Y. Officer W determined that the approach to the building where Subject 1 was located was less impeded from that alley than it was

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<sup>11</sup> Tony Montana is a fictional mobster in the movie *Scarface*.

<sup>12</sup> All telephone contact between police officers and Subject 1 during this incident was conducted in Spanish.

<sup>13</sup> The majority of the SWAT officers involved in this incident responded from their homes after being called by Metropolitan Division. Some of the officers were working overtime elsewhere in the city and were called out or heard the incident over the radio. Consequently, the involved SWAT officers arrived at the scene in a piecemeal fashion.

from the Boulevard side of the location, and selected the alley as the position to establish an Emergency Assault Team (EAT).<sup>14</sup> Officer W initially tasked Officer X with setting up an EAT at that location.

Officers D1 and E1 arrived and were directed by Officer W to participate in the EAT.

Sergeant D responded and observed Officer W as he was deploying officers. Sergeant E, the designated tactical supervisor, arrived on scene. Sergeant D then went to the Command Post (CP).

Officer W briefed Sergeant E, telling him that there had been two officer-involved shootings, that Subject 1 was contained inside the structure at the lot, that Subject 1 had his infant daughter as a hostage, and that there were possibly two additional males inside. An EAT had been established at the rear of the location, and an attempt was underway to establish containment.

As additional SWAT officers arrived, they were assigned to an arrest team. The arrest team was placed at the southwest corner of the lot. The team consisted of three officers, one of whom spoke Spanish.

The next two SWAT officers to arrive, Officers I1 and J1, were placed on the Boulevard, across the street from the lot, in a sniper role. These officers relieved a patrol officer with a UPR from that location.

Patrol officers taking cover behind vehicles on the Boulevard were relieved from those positions.

A second sniper team, consisting of Officers K1 and L1, was placed on an apartment building to the north of the lot.

A containment team was placed in a BEAR (armored vehicle) on the Boulevard, south of the lot. A further containment team was placed at the northeast corner of the lot.

Sergeant E, on the first of two visits to the personnel in the rear alley, had a brief conversation with Officer D1. Officer D1 told Sergeant E that he had his personnel and a plan in place, and that the EAT had run through a number of scenarios that might arise and how the EAT would deal with them.

As a Team Leader, Officer D1 assumed responsibility for the EAT from Officer W. Having responded to the alley, Officer D1 saw that the sliding gate at the rear of the lot was closed, but that the padlock holding the gate closed was not locked. Officer D1 removed the padlock and slid the gate open by four or five feet.

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<sup>14</sup> The EAT term has been discontinued since this incident occurred. The current term is "Emergency Rescue Team."



Officers X, Y, D1, and E1 discussed potential scenarios, including, Subject 1 coming out shooting, holding a gun or holding Victim B, and what their actions would be if those scenarios were to arise. It was determined that if shots were heard from inside the location or if a member of the EAT fired, the EAT would initiate. The EAT members' responsibilities if an assault was launched were also discussed.

In response to a request by Officer D1, Officer H1 responded to the rear alley with a BearCat armored vehicle.<sup>15</sup> The police vehicle that had been providing cover for officers in the alley was removed and the BearCat was positioned at the southeast corner of the lot.

Officer D1 assigned Officer V to a position in the hatch in the roof of the BearCat. Officer D1 placed Officer V (a K-9 officer) in the hatch of the BearCat because the EAT was "pretty thin on manpower," and he was working with the resources he had available. Officer D1 also noted that Officer V was an experienced and respected officer, and that he was equipped with a UPR with a scope.<sup>16</sup>

Metropolitan Division K-9 Officer M1 responded to the alley and was assigned to assist the EAT by carrying breaching tools.

When Officer F1 arrived at the scene, he was informed by Officer W that he was to participate in a Deliberate Assault Team ("DAT").<sup>17</sup> Shortly after he was given that instruction, Sergeant E told Officer F1 to respond back to his vehicle and retrieve his sniper gear, as he was going to be placed in a sniper position. Officer F1 retrieved his sniper equipment and looked for someone to go with him to the sniper position. Officer F1 found Officer K1. In the process of attempting to reach a sniper position, Officer F1 was told by Officer W that he would not be placed in the sniper position and was to participate in the DAT. Officer F1 placed his sniper equipment in the BearCat in the alley and joined the DAT. The DAT's position was in the alley, to the south of the EAT officers.

From his sniper position, Officer I1 briefly observed a male figure, apparently holding a baby, at the office window. Officer I1 was concerned that this person could be a hostage who had been forced to stand in front of the window to see what the police would do. As he further analyzed what he had seen, Officer I1 became confident that the person he had seen was Subject 1. Officer I1 broadcast, "I see a gentlemen at the window; appears to be holding a baby [...] If this gentleman, the suspect, goes back to the window and loiters at that window and I see a handgun and he's got a child, this thing might go."

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<sup>15</sup> The BEAR and BearCat are two types of armored vehicle used by SWAT.

<sup>16</sup> According to Officer V, when he was given his assignment Officer D1 told him, "if this guy comes out and there's, you know, any danger to anybody or endangering (inaudible) and you have a clear shot you're going to have to take it."

<sup>17</sup> The DAT term has been discontinued since this incident occurred. The current term is "Deliberate Rescue Team."

Officer G1 arrived and, along with Officer H1, spoke with Officer W. As Officer W was briefing these officers, he heard a request from Officer D1 for additional officers to supplement the EAT.

At approximately 6:20 P.M., Subject 1 came out of the office holding Victim B and made himself visible to the EAT officers in the rear alley. Officer V saw that Subject 1 had a pistol in his waistband and relayed this information to the EAT officers. Officer X began speaking to Subject 1 in Spanish, repeatedly telling him, "Release the baby. We don't want any harm to come to the baby. Just please release the baby."

Officer X then saw Subject 1 hold Victim B far enough away from his own body for a sniper to neutralize him. When Subject 1 did this, Officer X said to Officer Y, "If you're going to take a head shot, now would be a good time to do it."

Officer V was watching Subject 1 through the scope of his rifle. Officer V aimed his rifle at Subject 1's head and upper body, but initially assessed that it was unsafe to fire because of the way Subject 1 was holding Victim B. Subject 1 then momentarily moved out of Officer V's view. When Subject 1 reappeared, Officer V could see Subject 1's head, upper body and left arm through his scope, but could not see Victim B.

Subject 1 yelled, waved and reached toward the gun in his waistband. Officer V saw that he had a clear shot, without Victim B being in the way. Officer V fired one round at Subject 1.<sup>18</sup>

When Officer V's shot was fired, Subject 1 spun to his left, downward and out of view of all the EAT officers. Officer D1 gave the instruction for the EAT to enter the lot. A broadcast was made to indicate that the EAT was initiating.

Although the round that was fired by Officer V did not strike Subject 1, none of the EAT officers was aware of this fact as they initiated. According to Officer D1, he believed that Subject 1 had been shot but not incapacitated.<sup>19</sup>

The EAT officers made entry to the lot according to the pre-planned order. Officer Y went first. As he made it past the vehicles parked in the lot, Officer Y saw Subject 1 running into the office. Officer Y stopped just short of the office door. Behind Officer Y was Officer X, who had been assigned the role of deploying a noise flash device. Respectively following Officer X were Officers E1 and D1. Officer M1 followed with the breaching tools.

As the EAT officers initiated entry, Officers W, F1, G1 and H1 followed them into the office.

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<sup>18</sup> Officer V did not hear Officer X make the statement regarding the head shot. Officer V had been told that a shot would prompt a hostage rescue.

<sup>19</sup> Video evidence shows that after he was shot at, Subject 1 ran back into the office. As he ran, Subject 1 was holding a pistol in his left hand and Victim B in his right arm. Victim B does not appear injured in the video images.

The EAT officers lined up behind Officer Y at the entrance to the office.<sup>20</sup> Subject 1 fired several rounds from his pistol through the wall alongside which the officers were standing. Officer X was struck by a round fired by Subject 1 and sustained a gunshot wound to the area of his right arm and shoulder. Officer X deployed the flash bang device and Officer Y crossed through the interior office doorway to the west side of the office. The device detonated, emitting smoke and a loud noise. The device did not emit shrapnel. The room was filled with smoke from the flash bang device. Officer Y tripped and fell to the floor parallel to the west wall. Officer X followed Officer Y into the doorway and stepped to the right (east) and forward to allow enough room for the rest of the team to enter. Officer E1 entered the interior office door behind Officer X. Officer E1 stepped inside and to the right, stepping around Officer X. Officer F1 entered and moved toward Officer X who was on one knee. Officer F1 moved to Officer X 's flank to protect him. Officer G1 entered, stepped past Officer X and Officer F1 and positioned himself between Officer F1 and Officer E1.

As Officer Y entered the office, he could hear shots being fired and observed that there was a lot of smoke in the office. Officer Y tripped and fell to the ground.

From his position on the ground, Officer Y looked up and saw Subject 1 holding Victim B in his right arm and firing his handgun in the direction of Officer Y's fellow officers. Subject 1 moved, in what Officer Y took to be an effort to avoid being shot. As he did so, Subject 1 was firing at the officers and "pointing his weapon in the area of the hostage."

Officer Y fired 25 rounds from his M4 rifle at Subject 1. The shooting stopped and Officer Y saw Subject 1 lying on his back with Victim B by his knees. Subject 1 looked at Officer Y and started to move his left hand toward his pistol. Believing that Subject 1 was attempting to reacquire his pistol, which was near Subject 1's fingertips, to shoot at the officers or the hostage, Officer Y fired two contact shots at Subject 1's head.<sup>21</sup> It looked to Officer Y as if Subject 1's pistol was still loaded, or "in-battery."<sup>22</sup>

Once in the office, Officer X saw Officer Y go down. Through the smoke from the flash bang device, Officer X saw the silhouette of a person with a gun behind a desk, and muzzle flashes. Officer X knew that he had been shot, and thought that Officer Y had also been shot.

Officer X attempted to shoulder his M4 rifle, but could not do so because of his injury. Officer X then held his weapon in an underarm position. Officer X fired a total of ten rounds at the torso of the person behind the desk. During the exchange, it appeared

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<sup>20</sup> A surveillance camera, viewable from within the office, provided a view of the officers as they lined up alongside the office wall.

<sup>21</sup> A "contact shot" is a gunshot fired when the muzzle of the weapon used is in contact with the body of the person being shot.

<sup>22</sup> Following this incident, Subject 1's pistol was recovered in "out of battery" condition, with the slide locked back. The slide of a semi-automatic pistol generally locks back when all the ammunition in the pistol has been discharged. A locked-back slide indicates that the pistol is in an "out of battery" condition.

that the person behind the desk fell, then fired over the desktop. When the gunfire stopped. Officer X said, "I'm hit," and went down on all fours.<sup>23</sup>

Once Officer E1 entered the office, he saw both officers go down and believed that they had both been shot. Officer E1 stepped to the right and saw Subject 1 in the corner of the office. Subject 1 was pointing his gun at Officer E1, and Officer E1 saw muzzle flash from Subject 1's weapon.

Officer E1 fired nine rounds at Subject 1's torso. Officer E1 moved forward as he engaged Subject 1 and Subject 1 fell back. As Officer E1 moved up on Subject 1, he saw him holding his pistol in his left hand, attempting to point the gun at the officers. Officer E1 stepped up and delivered a two-round contact burst to Subject 1's torso. Officer E1 then saw that he was not moving and was no longer a threat.<sup>24</sup>

Upon entering the office, Officer F1 saw Officer Y down on a knee on the west side of the room. Officer Y was shooting. To Officer F1's right was Officer E1, who was also shooting. Meanwhile, Officer X, who was also shooting, was on his knee. The officers were shooting at Subject 1, who was behind a desk, holding Victim B in his right arm and shooting a handgun in the direction of the officers with his left hand. Officer F1 saw that Subject 1 was using Victim B as a "shield," and was holding her by his torso with her head at the level of his right shoulder.

Officer F1 raised his MP5 9mm sub-machine gun, illuminated Subject 1 with the weapon's light system, aimed at Subject 1's head and fired six rounds. Officer F1 was unsure whether his rounds struck Subject 1. As he fired, Officer F1 saw Subject 1 start to "slide down the wall." Officer F1 saw that Subject 1 was still holding Victim B in his right arm as he slid down the wall.

Officer F1 lost sight of Subject 1 as Subject 1 went behind the desk.<sup>25</sup> Officers E1 and Y moved toward Subject 1, and Officer F1 did the same. Officer F1 saw Victim B lying on Subject 1's lap. He saw that Victim B had a major head injury and appeared to be dead. Officer F1 then saw Subject 1 reaching for a handgun that was one or two feet away from Subject 1, against the east wall of the office.<sup>26</sup> Officers E1 and Y then delivered contact shots to Subject 1. Officer F1 reached down and picked up Victim B by the arm and moved her toward the entrance of the office.

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<sup>23</sup> Officer X believed he had been shot from behind, did not see Subject 1 enter the office, and did not think that the person he was engaging in the office was Subject 1. Rather, he believed that he was confronting one of the two additional males he had been informed were in the location.

<sup>24</sup> Officer E1 did not recall the condition of Subject 1's pistol (i.e., whether it was in slide-lock) when he saw Subject 1 holding the pistol immediately prior to the contact shots.

<sup>25</sup> Smoke from the flash bang device impaired Officer F1's ability to see "to a certain degree" when he entered the office. Additionally, according to Officer F1, the window of the office had been covered and there was an issue with light. However, Officer F1 could still make out Subject 1 and Victim B.

<sup>26</sup> Officer F1 did not know what the condition of Subject 1's pistol was at the time Subject 1 reached for the pistol.

Officers G1, D1, and M1 followed Officers X, Y and F1 into the office. These officers did not discharge their weapons.<sup>27</sup>

Subject 1 was incapacitated and fatally injured by the two contact shots.

Officer M1 saw that Officer X was injured and dragged him from the office. Based on information provided that two additional males were inside the location, officers began to clear the remainder of the lot and the adjoining premises.

At approximately 6:30 P.M., paramedics entered the office and determined that Subject 1 and Victim B were deceased.

The location was cleared and no additional people were located. Involved and certain witness officers were subsequently separated and monitored.

Officer X was transported to the hospital. Officer X subsequently underwent surgery for his gunshot wound and the projectile was removed.

Subject 1 fired a total of 39 rounds in the course of this incident, including an estimated 15 during the final engagement with SWAT officers.

A subsequent autopsy determined that Subject 1 had consumed methamphetamine and cocaine.

### **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/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

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<sup>27</sup> Excluding the four contact shots, two of 50 rounds fired by SWAT officers during the exchange struck Subject 1: Officer Y fired at total of 27 rounds (including 2 contact shots); Officer X fired 10 rounds; Officer E1 fired 11 rounds (including 2 contact shots); and Officer F1 fired 6 rounds. One round struck Subject 1 in the thigh, the other in the finger. Officer X fired his weapon in semi-automatic mode, due to his injury and the anticipated difficulty in controlling his weapon in fully-automatic mode. Officers Y, E1 and F1's weapons were set to fully-automatic during the exchange with Subject 1. The officers who used their weapons in fully-automatic mode indicated that they fired in two-round bursts, as they were trained to do. None of the officers who made entry to the office saw Victim B get shot. Victim B sustained two gunshot wounds: a non-fatal injury to her leg and a fatal injury to her head.

## **A. Tactics**

The BOPC found Officers G and L's tactics to warrant administrative disapproval. The BOPC found Lieutenant A, Sergeants A, F and G, and Officers A, B, H, I, M, N, O, P, R, S, T and U's tactics to warrant formal training. The BOPC found Officer E1's tactics to warrant formal training. The BOPC found Lieutenant B, Sergeants D and E, and Officers V, W, X, Y, D1, F1, G1, H1 and M1's tactics to warrant no action.

## **B. Drawing/Exhibiting/Holstering**

The BOPC found Lieutenant A and Officers A, B, G, L, M, N, O, P, V, W, X, Y, D1, E1, F1, G1, H1 and M1's drawing and exhibition of a firearm to be in policy. There were additional officers that drew or exhibited a firearm during this incident. Although these officers were not specifically named, the BOPC found these officers' drawing and exhibiting of a firearm to be in policy.

## **C. Use of Force**

The BOPC found Officers G and L's use of force to warrant administrative disapproval. The BOPC found Officers A, M, N, O, V, X, Y, E1 and F1's use of force to be in policy.

## **Basis for Findings**

### **A. Tactics**

The BOPC, because of the scope and outcome of this incident, directed that significantly involved personnel participate in a formal debrief of the entire incident.

The BOPC subdivided the tactical analysis of this incident according to Command and Control, First Responders, SWAT Functions and SWAT Entry Team Functions. Summaries of these analyses are presented below.

#### **Command and Control**

The BOPC noted that because of limits of command and control during this incident, subordinate officers assumed leadership roles, implemented tactics that were not coordinated and ultimately fired into a building where it was known that at least one hostage was being held.

The BOPC recognized that the initial rescue attempt of Victim A, while courageous, was not fully coordinated or led by a supervisor, and that when the rescuing officers came under fire and returned fire, their rounds penetrated through the building, causing Officers G and L to believe they were under fire from Subject 1. Further, the BOPC noted that if there was a need to rescue Victim A, more supervisory oversight would have afforded the officers additional time to plan and for supervision to coordinate activities. It was noted that Officer M recognized the need for supervisory input but received none, and therefore assumed a leadership role. It was also noted that, had

there been more supervisory input, Officer M and Officer M's team could have used alternative, safer tactics to rescue Victim A and to avoid crossfire at the scene. The BOPC noted that it would have been preferable for all on-scene personnel to seek and maintain good cover because of the on-going shooting by Subject 1.

The BOPC noted that it is crucial that an incident commander be readily identifiable, and noted supervisory actions that routinely must be implemented in a rapid and decisive manner. Those actions include:

- Assume and announce command and control of the situation;
- Secure a radio frequency;
- Establish an inner and outer perimeter;
- Direct and control tactics;
- Divert traffic; and,
- Establish a Command Post and staging area if needed.

The Chief of Police has directed that the above-recommended actions will be reviewed and evaluated for inclusion in supervisory training programs.

The BOPC noted that the Air Support officers were among the first to use the term "active shooter." The BOPC noted that Subject 1 had not yet shot a hostage and did not have access to substantially more victims, and as such was not an "active shooter." The BOPC noted that, because the term "active shooter" was used by several persons, IARD tactics were used to attempt the rescue of Victim A and ultimately used in modified fashion in an attempt to rescue Victim B. The BOPC noted that this incident was a hostage incident, not an "active shooter" incident.

The Chief directed the Commanding Officer, Air Support Division, to implement a series of tabletop scenario-based training exercises for all Air Support personnel to include:

- Command and Control from the air and assisting supervision in establishing the above six functions;
- Active shooter training vs. actively shooting barricaded suspects; and,
- Perimeter containment.

The BOPC determined that Lieutenant A, Sergeants A, F and G, and Officers H and I would benefit from formal training in reference to command, control and supervision of incidents such as this involving a barricaded suspect with hostage(s). This training will be considered a formal debrief as well as to capture any additional training concerns.

### First Responders

The BOPC noted that Officers A and B arrived at the radio call and parked the police vehicle directly in front of the location, placing them in a position of tactical disadvantage. In mitigation, the BOPC acknowledges that Victim A had waived down the officers as they arrived.

The BOPC determined that Officers A and B would benefit from additional training in regard to tactical deployment and operations in situations involving a hostage.

The BOPC noted that although the decision to rescue Victim A, which involved Officers M, N, O, P, R, S, T and U was a brave one, a more appropriate tactic should have been used. The BOPC noted that the IARD tactic is more suitable for an indoor active shooter, such as in a school or church. The BOPC reviewed the video footage of the incident and noticed that the diamond formation looked like a loosely-formed line of officers traveling across an open space at one time. The BOPC noted that the tactics used in the second (successful) rescue attempt, when officers approached from the south of the lot, was safer for everyone involved. The BOPC noted that this incident revealed a weakness in the Department's tactics should a similar situation occur. The Chief directed that additional training be developed regarding this tactical issue.

The BOPC determined that Officers M, N, O, P, R, S, T and U would benefit from additional tactical training regarding IARD and hostage rescue operations.

The BOPC noted that Officer G left cover on two occasions in order to see where gunfire was coming from or to get a clear shot at Subject 1. The BOPC also noted that, as he moved about, Officer G placed himself directly in the line of fire of another officer's shotgun. The BOPC additionally noted that Officer G was not wearing body armor as he moved away from cover, making him more vulnerable to injury from Subject 1's gunfire.

The BOPC determined that Officer G's tactics were severely deficient, requiring administrative disapproval.

The BOPC noted that as Officer L deployed into the alley and took a position behind the police vehicle, he was cognizant of rounds impacting in his immediate vicinity. The BOPC noted that Officer L's position behind the police vehicle left him partially exposed, susceptible to Subject 1's gunfire, and ultimately resulted in him firing his UPR. The BOPC noted that, due to Subject 1 being contained inside of the building, as well as the presence of a hostage, it would have been more tactically sound for Officer L to assume a position of cover that would have reduced his risk from Subject 1's gunfire. The BOPC determined that Officer L's tactics were severely deficient requiring administrative disapproval.

#### SWAT, Metropolitan Division Functions

The BOPC noted that a SWAT armored vehicle (BearCat) was positioned in the alley to the rear of the lot. SWAT Officers W, X, Y, D1, E1, F1, G1, H1, and M1, along with K-9 Officer V also deployed to the rear. Officer W coordinated tactical operations throughout the entire immediate perimeter area, as Officer D1 led Officers E1, F1, G1, H1 and M1 at the rear of the structure behind the armored vehicle. Officer D1 was the element leader and developed an Emergency Assault Team (EAT). Officer V, armed with a UPR with a scope, was directed by Officer D1 to enter the armored vehicle hatch.



The BOPC noted that the EAT is deployed to immediately respond and rescue innocent persons and stop the deadly actions of a suspect(s) when it is deemed that the suspect(s) actions are immediately life-endangering, and a delay in response would result in death or serious bodily injury to innocent persons. Members of an EAT are trained that if a single round is fired by either a suspect or a sniper officer, the EAT will initiate to stop the immediate threat.

The BOPC noted that, when the EAT had been formed and as the sniper teams were being positioned on the perimeter, Subject 1 exited the rear of the building while carrying Victim B in his right arm. Officer V relayed this to the others and gained a sight picture of Subject 1's face and neck area through the scope of his UPR. Officer V then observed Subject 1 reach down to his front waistband in an apparent effort to retrieve the pistol located there. Officer V believed that Subject 1 was about to retrieve the pistol and shoot at the officers or kill Victim B. Officer V fired one round at Subject 1.

### SWAT Entry Team Functions

The BOPC noted that Officer V's single round caused Subject 1 to drop down, out of view of the EAT officers, and to run back into the building holding Victim B. As was standard protocol at the time of this incident, the EAT initiated and entered the building, staging immediately outside of the office doorway.

The BOPC noted that several SWAT officers on the EAT stated that it was consistent with SWAT training and protocol at that time that when an EAT is formed and any round is fired, either by the suspect or a sniper officer, this will cause the EAT to initiate and neutralize the threat, while making every effort to rescue any hostages.

Subject 1 fired through the office wall at the officers, striking Officer X. Officer X deployed a flash noise device into the office and the team made entry, as Subject 1 continued to fire at them. Upon entering the office, four SWAT officers fired rounds at Subject 1 to stop his deadly actions.

The BOPC noted that several of the entry team members stated that the flash noise device caused enough smoke to partially impair their view of Subject 1.

The BOPC found Officers V, W, X, Y, D1, F1, G1, H1 and M1's tactics were consistent with prevailing standards, requiring no further action. The BOPC determined that Officer E1 would benefit from additional tactical training regarding the placement of contact shots to Subject 1's torso, due to the proximity of the shots to Victim B, who was on the lap of Subject 1 at that time.

### **B. Drawing/Exhibition/Holstering of a Firearm**

The BOPC noted that responding personnel were repeatedly faced with an aggressive and irrational suspect, who fired numerous rounds in an apparent attempt to kill them and precipitate his own death. The BOPC found that, in addition to the significantly

involved personnel, the drawing and exhibiting of all Department personnel at the incident was in policy, requiring no action.

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

The BOPC noted that Subject 1 exited the west door, stood near the doorway, raised a handgun with his left hand and fired at Victim A and Officer B. Officer A observed Subject 1's upper torso through the window of a vehicle parked in the lot and believed Subject 1 was going to shoot his partner.

The BOPC determined that Officer A's use of lethal force was reasonable in this situation to stop Subject 1's violent actions and found Officer A's use of force in policy, requiring no action.

The BOPC noted that upon Officers M, N, O, P, R, S, T and U's arrival, they formed an IARD team to rescue Victim A from within the gated lot. The BOPC noted that as the team moved from the cover of a police vehicle, Subject 1 fired upon them from inside of a window of the office and that Officers M, N and O returned fire at the muzzle flash. These officers then saw additional gunfire coming from the door at the front of the building and returned fire.

The BOPC noted that Officer P fell to the ground as Subject 1 fired at the officers. The BOPC noted that Officers N and O believed that Officer P had been shot and fired in defense of their own and Officer P's lives.

The BOPC determined that Officers M, N and O's use of force was reasonable in this situation. The BOPC found Officers M, N and O's use of force in policy, requiring no action.

The BOPC noted that upon Officer G's arrival at the rear alley, he heard two to three rounds being fired from inside the building and left cover to obtain a better view. The BOPC further noted that, as Officer G moved northbound, he saw Subject 1 move in the direction of the doorway of the inner office, raise his left arm in a southwesterly direction and fire one to two rounds.

The BOPC noted that Officer G, fearing for the lives of the officers and the lives of the citizens in the area, fired six rounds at Subject 1.

The BOPC noted that as Officer G re-assumed a position behind the police vehicle, Officer L arrived with a UPR and took a position of cover behind the police vehicle, to the left (south) of Officer G.

The BOPC noted that Officer G again heard gunshots and rounds impacting near to his location and fired an additional two rounds. Although Officer G subsequently reported that he had seen Subject 1 firing at him, the BOPC noted that evidence demonstrated that Officer G could not have seen Subject 1 at this time. The BOPC further noted that investigation established that the rounds impacting near Officers G and L were those of

the officers at the front of the lot firing at Subject 1 during their attempt to rescue Victim A.

The BOPC determined that it was not reasonable for Officer G to believe that he was being fired upon by Subject 1, and that Officer G fired without a target. The BOPC found the final two rounds fired by Officer G to be out of policy, requiring administrative disapproval.

The BOPC noted that Officer L stated that he observed Subject 1 standing at the opening of the inner office doorway, firing a handgun in his direction, and that Officer L fired 11 rounds from his UPR. The BOPC noted that the projectile path and impact analysis identified the trajectory of five of Officer L's rounds. These rounds were determined to have traveled in a northwest direction, impacting the east office wall, three to four feet north of his purported target.

The BOPC noted that Officer L arrived in the alley after Subject 1 had entered the interior office and closed the door. Officer L could not have seen Subject 1 and fired without a target.

The BOPC noted that Officer L knew that hostage(s) were present and showed disregard for their safety. The BOPC also noted that Officer L knew that other officers were positioned on the opposite side of the lot and were potentially in his line of fire. The BOPC determined that Officer L's use of lethal force was out of policy, requiring administrative disapproval.

The BOPC noted that soon after the SWAT EAT had been formed, Subject 1 exited the rear of the building holding Victim B. Officer V, from an elevated and protected position within the hatch of the armored vehicle in the alley, obtained a view of Subject 1's neck and face area with the scope mounted to his UPR. Officer V observed Subject 1 with the handgun in his front waistband. Officer V believed that Subject 1 was about to retrieve the pistol and shoot at the officers or kill Victim B and that as Subject 1 began to reach for the gun, Officer V fired at Subject 1's neck area.

The BOPC noted that the EAT initiated and entered the building, forming a line alongside the south wall outside of the doorway to the office. Subject 1 fired rounds from inside to the office, through the walls, at the officers. Officer X, who was struck by Subject 1's gunfire, deployed a noise flash device into the office and the officers made entry to stop Subject 1's violent actions and to attempt to rescue Victim B. The BOPC noted that the EAT officers feared being shot and killed by Subject 1's ongoing gunfire, knew that Officer X had already been shot, and were concerned for the safety of Victim B, thinking that Subject 1 would shoot and kill her. The BOPC noted that Subject 1's pistol was recovered in an "out of battery" condition after the incident. The BOPC noted that, as the entry team officers fired their weapons inside of the office, they did not observe Subject 1's pistol in this condition. The BOPC further noted that due to the location of the pistol in an inaccessible corner of the office, obstructed by furniture, the officers could not use alternative methods to prevent Subject 1 from reaching his pistol when he did so prior to the use of contact-shots.

The BOPC noted that the EAT members attempted to rescue Victim B while being fired upon repeatedly by Subject 1, and that both Subject 1 and Victim B were killed by gunfire within the final moments of this incident.

The BOPC determined that the uses of force by the SWAT entry team officers were reasonable due to the fact that they were being fired upon by Subject 1. The BOPC noted that the SWAT entry team officers acted in accordance with their training during this incident.

The BOPC found Officers X, Y, E1 and F1's use of force in policy, requiring no action.

### **Additional Considerations**

The Commission found that the majority of Los Angeles Police Department personnel involved in this incident performed in accordance with policies and protocols as they existed at the time of the incident. Nevertheless, the Department and the Commission have identified room for improvement in the manner in which the Department responded to this challenging and violent event.

It is the Commission's and Chief of Police's intent that the lessons of this tragic incident be learned and that the Department improve its capacity to respond to future incidents of a similar nature. The Department has already instituted a series of improvements, which the Commission has approved and that will provide for an improved police response. To supplement the improvements already planned or instituted, the Commission has identified further areas for improvement and has directed the Chief of Police to institute them.

The improvements resulting from the review of this incident include, but are not limited to, the following:

- Improved training to supervisory personnel to better equip them with the skills they need to effectively manage critical incidents including, but not limited to, efforts to coordinate more effectively at critical incidents and to take all relevant measures to avoid crossfire.
- A review of training and qualification practices for the Urban Police Rifle. The Commission expects that modifications to those practices will be made as necessary to improve upon existing standards and ensure appropriate use of these weapons in future incidents.
- A review of the training provided to officers for situations involving barricaded armed suspects, and for hostage situations where the hostages are attacked by the hostage-taker.
- Research to ensure that the distraction devices used by SWAT officers when they enter buildings provide the best level of protection for officers and the public.

- A review of the training of SWAT officers regarding the use of their weapons during high-stress incidents, such as being fired upon by a suspect. We hope that this review will result in additional training scenarios so that officers can better protect themselves and the public they serve.
- A review and codification of the protocols and decision-making processes used by SWAT during hostage situations. The goal of this review is to ensure that key tactical decisions made during SWAT operations are consistent with the goal of achieving strategic, managed operations. Additionally, the Chief of Police has convened a Board of Inquiry to review SWAT procedures and protocols. That process should be concluded soon.
- The Department's investigation and review process for categorical uses of force is to be broadened. Future investigations and reviews will fully evaluate the performance of supervisors and senior personnel with command responsibility for officers involved in this type of incident.