

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

OFFICER-INVOLVED SHOOTING – 026-21

Division	Date	Duty-On () Off (X)	Uniform-Yes () No (X)
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Van Nuys	4/28/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	14 years
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Reason for Police Contact

An off-duty officer walked into the attached garage of his/her townhouse as he/she prepared to leave for work. The off-duty officer observed a burglar inside the garage and confronted him. The Subject produced a pistol and fired at the off-duty officer resulting in an Officer-Involved Shooting (OIS). The off-duty officer and the Subject were struck multiple times by gunfire. The off-duty officer and the Subject were transported to local hospitals and treated for their injuries.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 25 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force 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, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on April 5, 2022.

Incident Summary

On April 28, 2021, at approximately 1300 hours, Police Officer A was off-duty inside his/her townhouse. Witness A and Witness B (also a Police Officer) were also inside the residence; however, Witness B was not present when the OIS occurred.

According to Officer A, he/she returned home at approximately 1300 hours. Officer A backed his/her vehicle into his/her garage and parked it. According to Officer A, Witness B was in the process of moving out from the townhouse. Witness B was loading his/her belongings and furniture into a moving truck, which was parked outside. According to Witness B, at approximately 1339 hours, he/she finished loading his/her items into the moving truck and handed keys to the townhouse to Officer A. Witness B left the townhouse and drove away.

Officer A's residence was a multi-level townhouse with an attached two-car garage on the underground level, accessible via a driveway located off the street. The townhouse complex was bordered by a business on the east side. The underground parking garage is secured by an electronic gate. There is an east/west walkway along the south side of the building. The walkway extended to the rear, which led to a pool located on the southeast side of the building.

Officer A stated that Witness A had just ordered lunch. Officer A walked upstairs to his/her bedroom and prepared for work. Officer A wore khaki-colored cargo pants and a black t-shirt. Additionally, after he/she dressed, Officer A armed him/herself with his/her pistol, which he/she carried in a paddle holster. Officer A stated his/her t-shirt was not tucked in, and his/her pistol was not visible.

According to Witness A, she and Officer A were going to leave at the same time, and while Officer A prepared for work, she packed her belongings to return home. Witness A walked through the garage to load her belongings into her vehicle, which was parked in one of the guest parking stalls on the east side of the underground parking. Witness A described that she left the garage door open because she went in and out of the garage to load her vehicle and get the food she ordered. Witness A advised that she and Officer A were going to leave shortly; they did not like to open and close the garage door every time they entered and exited, which is why she left the garage door open.

Officer A confirmed that he/she did not like to repeatedly open and close the garage door because he/she did not want to burn the garage door motor. Officer A added that since the civil unrest incidents of 2020, the Department mobilization, and the possibility of being deployed to the field, he/she began carrying his/her police equipment inside the trunk of his/her vehicle. The equipment included his/her "War Bag" (equipment bag), helmet, baton, raid jacket, traffic vest, Sam Browne (utility belt), and ballistic vest. Officer A indicated that he/she used the "basement room," a room inside his/her house, next to the garage, to store his/her police equipment while he/she was home and would transfer the equipment from the room into the trunk of his/her vehicle every day just before he/she left the house to go to work.

According to Officer A, the food was delivered at 1356 hours, and Witness A walked through the garage to the underground driveway gate to pick it up. Officer A walked downstairs, ate lunch with Witness A, and estimated that he/she finished eating lunch between 1410 and 1415 hours.

After eating, Officer A walked down to the basement room where his/her equipment was stored, transferred his/her police equipment from the room, and loaded it into the trunk of his/her vehicle. Officer A described that his/her vehicle was a hatchback model, he/she had the rear passenger seats in the down position, and he/she loaded his/her "War Bag," helmet, baton, raid jacket, traffic vest, ballistic vest, and his/her Sam Browne inside the trunk of his/her vehicle. Officer A described that his/her Sam Browne was equipped with two fully loaded magazines for his/her Glock, Model 22, pistol inside the magazine pouches, handcuffs, a TASER holster, Oleoresin Capsicum (OC) spray, a baton ring, his/her badge, and the emptied holster for his/her primary pistol. Additionally, Officer A placed his/her backup weapon, a Glock, .40 caliber, Model 27 pistol, which he/she carried in a brown leather holster, inside the vehicle's glove compartment and secured it by locking the glove compartment.

Officer A returned inside his/her townhouse and walked upstairs to collect his/her cellular telephone, wallet, leftover food, and his/her water canteen. Officer A also put on his/her khaki work boots and tied them. Officer A estimated that it took him/her two to three minutes to collect his/her things and put his/her boots on. Officer A walked downstairs to the garage to leave for work and believed Witness A was behind him/her to leave as well. Officer A opened the door that led to the garage, stepped into the garage, and walked to the right toward the driver's door of his/her vehicle. Officer A described that once he/she broke the threshold of his/her townhouse door and walked toward the driver's door of his/her vehicle, he/she observed that the driver's door of his/her vehicle was open.

Officer A stated that he/she did not leave the door open. Officer A explained that both vehicles inside the garage were always locked, and it was not his/her standard practice to leave the vehicles open or unlocked. Officer A was unsure if he/she misplaced his/her vehicle's key or left the key inside the vehicle in the cup holder or the seat after he/she loaded his/her equipment into the vehicle.

Officer A indicated that upon seeing his/her driver's door open, he/she shouted, "Why in the [expletive] is my door open?" Officer A backed away from his/her vehicle and stood in front of it to get a better view. Once he/she backed away, Officer A observed the Subject, crouched down in a baseball catcher position wearing a black COVID face mask in the space between the opened driver's door and the vehicle's frame. Officer A also observed that his/her "War Bag" was now on the ground and behind the Subject.

Officer A believed Witness B was possibly playing a joke on him/her because he/she had recently left but quickly realized it was not a joke. Officer A observed the Subject's face from the top of the face mask to the top of his head and did not recognize him.

Officer A considered the Subject a burglar because the Subject entered his/her attached garage and had broken into his/her vehicle. Officer A believed the Subject could be armed and carrying a weapon that could cause serious injury or death. Officer A unholstered his/her primary pistol, transitioned his/her pistol to the low-ready position, and identified him/herself. Officer A stated that he/she identified him/herself by saying "Police. Let me see your hands." Officer A stated he/she had his/her primary duty weapon and was approximately eight to ten feet in front of his/her car slightly off to the left, so he/she could see the Subject better. Officer A stated the Subject was behind his/her opened driver side door behind the "A" pillar. Officer A identified him/herself again and could see that the Subject had on his/her ballistic vest. Officer A stated that the Subject said, "You're going to have to kill me."

Officer A indicated that he/she questioned why the Subject was inside his/her garage and told the Subject that he was on private property. Officer A ordered the Subject to show his hands, get out of the garage, and leave. According to Officer A, the Subject stood up, lifted his hands, held a pistol with both hands, pointed the pistol at him/her, and fired the pistol striking Officer A the chest two times.

Officer A stated that he/she was in fear for his/her life and believed he/she already sustained a serious gunshot wound. Officer A aimed his/her pistol at the Subject's right arm and fired his/her pistol in the Subject's direction. Officer A believed that he/she fired three to four times at the Subject. Initially, Officer A stated he/she fired two to three rounds toward the Subject while in the underground area of the townhouse complex. Later in the interview, Officer A stated he/she fired three to four rounds during this volley of gunfire. Four discharged cartridge cases were recovered from across Officer A's garage. These four discharged cartridge cases were determined to have been fired from Officer A's pistol.

When asked where Officer A aimed when he/she fired, he/she responded that he/she was aiming at the Subject's arm because he/she knew the Subject has on his/her ballistic vest and he/she was trying to stop the threat. Officer A believed that while he/she stood in front of his/her vehicle and the Subject stood behind the vehicle's opened driver's door, the Subject fired at him/her at least two times because he/she was struck twice in the chest.

Officer A assessed and realized that he/she stood in the wide-open area of the underground garage while the Subject stood behind the cover of the vehicle inside the garage. Officer A stated that he/she was in disbelief that the Subject was shooting at him/her and knew that he/she was at a terrible disadvantage given his/her cover/concealment, while he/she was standing in the wide open. Officer A indicated his/her options were to run toward the street through the underground garage; however, he/she would have no cover because the underground parking was a big rectangle, and no garage doors were opened. Another option was to run diagonally and up the stairway on the northeast side of the underground garage; however, he/she would have

turned his/her back toward the Subject, and the Subject would have a clear shot at him/her.

Officer A redeployed, held his/her pistol in his/her left hand, and ran east through the underground garage toward the stairway on the southeast side of the garage. Officer A turned south, ran up several steps to the top of the stairway landing, and opened the metal swing gate leading to the pool area. Officer A continued running south through the pool area to the walkway on the south side of the building.

Officer A believed that he/she did not fire his/her pistol when he/she ran from his/her garage to the stairway and through the pool area. When asked if the Subject fired at him/her as he/she ran, Officer A stated he/she did not believe he did either but was not sure. Officer A knew that he/she could not hear much because it was so loud inside of the garage from the initial gunshots and his/her ears were ringing. Officer A also stated that he/she was still in shock that he/she had been shot twice in the chest and was just trying to get to safety.

Officer A indicated he/she did not turn or look back to see where the Subject was, and his/her mindset was to run west along the building's south walkway to the street. Officer A described that as he/she ran west toward the street, he/she could not breathe and could not go farther. Officer A estimated that he/she ran west for approximately 45 feet from the pool area toward the street before he/she collapsed and fell to the ground. Once on the ground, Officer A turned and sat on the ground facing the pool area. Officer A observed the Subject walking toward him/her, wearing his/her ballistic vest while holding a pistol and firing the pistol at him/her. Officer A stated that the Subject shot him/her on the right upper hamstring.

According to Officer A, from a seated position, he/she aimed his/her pistol at the Subject's legs and fired the pistol in the Subject's direction approximately ten times. Officer A stated that he/she was aiming at the Subject's lower extremities – his legs to the best of his/her ability because he was still wearing his/her vest. Officer A believed he/she struck the Subject's lower leg with his/her shots because the Subject bled from the shin area.

The Subject continued advancing toward Officer A with the pistol pointed in Officer A's direction. Officer A stated he/she began to lose consciousness and was not positive if the Subject continued shooting at him/her. Officer A screamed for help and asked for someone to call 911 because he/she had been shot. Once the Subject was next to Officer A, the Subject dropped on top of him/her, and they began to wrestle for each other's pistol.

According to Officer A, while he/she and the Subject wrestled on the ground, he/she attempted to disarm the Subject to prevent the Subject from shooting at him/her again. The Subject held the pistol in a pistol grip with his finger on the trigger, placed the pistol against Officer A's abdomen, and told Officer A he was going to kill him/her, but the pistol did not fire. Officer A stated he/she pushed the Subject's hand away and at the

same time tried to secure the firearm to the best of his/her ability, but he/she realized at that he/she was at slide lock or that he/she was out of ammunition. Officer A added that he/she was extremely fearful that he/she was going to die right there, especially due to his/her inability to breathe. Officer A knew he/she was in a legitimate fight for his/her life and yelled for help.

Officer A indicated that he/she did not hear anyone answer his/her request for help. The Subject continued trying to use his/her pistol against Officer A, and they continued struggling for each other's pistols. Once he/she realized his/her pistol was out of ammunition, Officer A pushed the Subject's arms away in an attempt to create distance, stand up, and get away from him. Officer A used his/her pistol and struck the Subject twice on top of the head with the bottom of the magazine well.

Officer A stated that he/she gathered enough energy to take the pistol that the Subject was in control of, out of his hand, while still maintaining control of his/her own. Officer A stated that when he/she and the Subject were done wrestling, he/she was able to recover the pistol from him and he/she walked back to where the initial shooting took place. Officer A stated that when he/she got back to the garage, he/she wasn't breathing well. As Officer A got to his/her door, he/she yelled to Witness A to call 911. Witness A called 911, as Officer A collapsed in front of his/her vehicle.

Force Investigation Division investigators recovered a video from a Nest surveillance security system from a nearby residence. The Nest video footage did not capture the OIS; however, the audio captured the sound of multiple gunshots. A Sound Graph Analysis of the Nest video file identified the sound of 21 gunshots, fired over an approximately 25 second period. A total of 26 discharged cartridge cases were recovered from the OIS scene. The Subject fired 10 rounds and Officer A fired 16 rounds.

According to Witness A, she was inside the townhouse tying her shoes when Officer A walked outside into the garage and yelled, "What the hell? Why is my door open?" Witness A believed Officer A referred to the garage door being left opened. Witness A walked down to apologize for leaving the garage door open and peeked her head out the door. Witness A observed Officer A standing directly in front of his/her vehicle; he/she had a serious look while holding his/her pistol and pointing it toward his/her vehicle.

Witness A stated she immediately closed the door and heard, "Get out. What are you doing in here?" Witness A heard someone reply, "No, you're going to have to kill me. I'm not getting out." Witness A heard Officer A again warn the Subject to get out and this is private property and at that point heard gunshots. Witness A stated she immediately locked the door. Witness A then heard footsteps and people running. Witness A stated that the sound of the gunshots in the garage were in rapid succession, a pause, and then the sound of footsteps and running followed by additional gunshots. Witness A estimated she heard between eight and twelve gunshots during the first volley of gunfire.

Witness A remained on the bottom floor, which had a window that faced south toward the east/west walkway on the south side of the complex. Witness A described that from the bottom floor window, she observed the legs of someone wearing blue jeans run across the window away from the pool area toward the street and heard four additional gunshots. Witness A heard a tackling and wrestling sound and then heard a person ask for help and to call 911 because they had been shot. Witness A was not positive if the voice asking for help was Officer A or the Subject. Additionally, Witness A stated she was positive the legs she observed through the window in the blue jeans were not Officer A's legs because Officer A wore khaki colored pants that day. Witness A stated that she did not observe anyone in khaki colored pants run down the walkway.

Witness C resided in the same complex as Officer A. According to Witness C, he was in his bedroom when he heard yelling and arguing between two people outside the building. Witness C heard one gunshot a few seconds later, followed by a second gunshot and then multiple gunshots. Witness C looked out his bedroom window and observed the Subject running around the corner of the building north of his building. Witness C described that the Subject ran from the pool area toward the street and Officer A chased him from approximately ten to fifteen feet behind. Witness A stated that Officer A held a pistol in his/her right hand and fired the pistol at the Subject multiple times as he/she chased behind the Subject. Witness C added that the Subject appeared as if he was running for his life.

Robbery Homicide Division (RHD) investigators interviewed the Subject. The Subject admitted he fired one or two rounds at Officer A, and Officer A ran. The Subject chased Officer A toward the pool and fired at him/her because he wanted payback since Officer A fired at him. The Subject stated Officer A ran backward, faced him, and fired at him. The Subject believed he fired at Officer A approximately five times.

Witness D, indicated she heard a gunshot, followed by two to three additional gunshots a couple of seconds later. Witness D initially believed the gunshots were fireworks because there was a brief pause between them, but the gunshots continued; they were in rapid succession and sounded closer to her. Witness D stated she might exaggerate the number of gunshots because they were in rapid succession, but they sounded like 30 gunshots. Witness D heard a commotion outside and ultimately looked out the window into the walkway north of her apartment complex.

Witness D indicated that a cinderblock wall between the two buildings partially blocked her view, but she observed Officer A and the Subject on the ground bleeding, and Officer A leaned over the Subject. Witness D stated that Officer A had a gun either on his/her lap or next to him/her. Witness D used her cellular telephone and recorded a 30-second video clip of Officer A and the Subject on the ground. Witness C called 911 and reported the shooting. As he spoke with the 911 operator and provided the information, Witness C walked with Witness D outside to the street to meet with responding officers.

Witness E resided in the same townhouse complex as Officer A. According to Witness E, at 1426 hours, she was inside her townhouse when she heard what she described as four to five loud noises. Witness E stated the noises sounded like someone hitting or kicking her windows. She then heard someone yelling for help. Witness E opened her second-floor window and observed Officer A and the Subject lying on the ground underneath her window. Witness E added she saw a lot of blood, Officer A was lying on top of the Subject, and the Subject was wearing a bulletproof vest. Witness E indicated the Subject kept yelling that he was going to die. Witness E used her cellular phone and took seven photographs from her second-floor window where Officer A and the Subject lay. Witness E called 911 and reported the incident.

According to Witness F, an employee at the business, located east of Officer A's residence, was walking up to the rooftop parking lot when he heard two loud sounds. Witness F described the sound as hard knocking sound as if someone was nailing or hammering on a roof. Witness F began to look around to see where the noise came from but did not see anything. Witness F estimated that he heard an additional two loud sounds approximately five seconds later, and he continued looking around but did not see anything. Witness F then entered a vehicle, lowered the windows, and drove from the rooftop down to the first level.

As Witness F drove down the parking lot ramp, he heard someone arguing. Witness F stopped the vehicle and heard a voice state, "Hold Up! Hold Up!" Witness F looked to his left and observed Officer A and the Subject on the ground bleeding in the walkway between the buildings. Witness F indicated he exited the vehicle and observed Officer A on top of the Subject. At that moment, Officer A turned toward Witness F and asked him to call 911 because he/she had been shot. Witness F observed Witness G driving up the ramp. Witness F told Witness G to stop and call the police. When he turned back to the walkway, Witness F observed Officer A holding a gun in his/her right hand. Witness F indicated that Officer A walked slowly, and it appeared as if he/she was going to fall. Officer A walked down the stairs into the underground parking and out of Witness F's view while the Subject remained lying down in the walkway.

According to Witness G, he was driving a vehicle up the parking ramp to the rooftop parking when Witness F ran up to him and requested that he stop. Witness G stated that Witness F advised him that two people were bleeding in between the apartment buildings. Witness G exited the vehicle, estimated he was approximately 100 feet away when he observed Officer A and the Subject covered in blood while lying on the ground struggling. Witness G observed that Officer A was on top of the Subject. Officer A stood up, turned toward Witness G, and held a gun in his/her right hand. Upon seeing the gun, Witness G ran up the parking ramp to the second-floor parking.

According to Witness H, also an employee of the business, he was driving a vehicle up to the rooftop parking lot when he observed Witness G running up the ramp. Witness G advised him that there was a man with a gun. Witness H stated he did not see the man with the gun, but he used the stairs to walk up to the rooftop parking lot and stood behind a wall. Witness H estimated he was approximately 65 to 70 feet away when he

observed the Subject attempting to throw something over the wall into the yard next to him.

Force Investigation Division investigators obtained surveillance video from the business. The video did not have audio. A camera to the rear of the business covered a ramp leading to second-floor parking lot, the southeast corner of Officer A's townhouse complex, and Witness C and D's apartment building. The video captured a bullet impacting the top of the south wall of Officer A's complex near the pool area. Immediately after the impact, Officer A, who was wearing a black t-shirt, khaki pants, and khaki boots, ran through that area and turned right out of the camera view. Approximately two seconds later, the Subject, wearing a dark t-shirt, black shorts, black socks, and black tennis shoes, ran behind Officer A and disappeared from the camera view.

Approximately four seconds after the Subject ran through the pool area, two separate bullets impacted the wall on the east side of the ramp. Approximately a minute later, Witness F drove a vehicle down the ramp. Witness F stopped the vehicle, exited, and appeared to look in the direction of the east/west walkway where Officer A and the Subject were last seen. Witness F walked down the ramp and gestured to another employee to call the police. Witness F walked out of the camera view for approximately thirteen seconds and appeared again.

Witness G joined Witness F and looked in the direction of the walkway. Approximately 27 seconds later, Witness G ran up to the top of the ramp, and Witness F ran south and disappeared from the camera view. Approximately 23 seconds later, Officer A walked from the walkway through the pool area toward his/her garage.

According to Witness A, she heard Officer A return to the garage, she opened the door and observed Officer A covered in blood. Witness A observed Officer A return with two guns and was not positive if Officer A held the guns or if they were on the ground. Witness A described one of the guns was emptied because the slide was to the rear. Officer A told Witness A that he/she had been shot, and asked her to call 911 and request an ambulance. Witness A obtained a towel from the townhouse, applied pressure on Officer A's gunshot wounds, and called 911. As Witness A applied pressure to Officer A's wounds, he/she told her to get the remote control to the underground garage gate and to open the gate for the responding officers. Witness A obtained the remote control for the gate from Officer A's vehicle.

Because of the shooting, Communications Division (CD) received eight separate 911 calls and broadcast six separate shooting calls related to the incident. According to Witness A's 911 call, as Witness A advised the 911 operator there had been a shooting, Officer A was in the background stating, "Off-Duty officer shot three times." Witness A repeated the information to the 911 operator and provided the address. Communications Division immediately broadcast a "shooting in progress" involving an off-duty officer shot.

Numerous uniformed personnel responded to the “shooting just occurred, officer needs help” call. The following recounts the actions of those officers who responded to the incident. The incident unfolded rapidly, and the officers’ actions, although depicted in a particular order, may have occurred simultaneously.

According to Officers B, C, and D’s DICVS and BWV, they were the first unit to arrive on scene at 14:30:45 hours. Officer C utilized his/her hand-held radio and advised CD they were at the scene. Witnesses C and D stood on the street, pointed to the east/west walkway on the south side of the townhouse complex, and directed Officers B, C, and D to the Subject’s location. Officer C walked up to the front driver’s side of a parked white vehicle; his/her BWV captured the east/west walkway with a closed metal gate on the west side of the walkway, and the Subject laying midway between the gate and the rear of the building. Officer C used his/her left hand pointed in the walkway’s direction and told Officers B and D to hold up. Officer C advised that the Subject was down and to wait. Officer C stated that he/she believed that the Subject was shot and was trying to throw something over the fence.

According to Officer B’s BWV, at 14:31:00 hours, as Officer C described his/her observations, Officer D turned to Officer B and asked him/her for the address. Officer D shouted, “We got one person down,” he/she turned to Officer B and told him/her to broadcast the information. Officer B used his/her hand-held radio and broadcast that they had a male Subject down and requested that a Rescue Ambulance (RA) respond.

According to Officer D’s BWV, at 14:31:35 hours, as Officer B shouted the address, Officer D used his/her hand-held radio, broadcast the address, and stated there was a small east/west walkthrough and that the Subject was possibly there.

According to Officers B, C, and D, Witnesses C and D directed them to the east/west walkway on the south side of the building upon arriving at scene. Officers B, C, and D unholstered their pistols upon arriving and provided their reasoning for unholstering their pistols. Each officer provided similar reasons why they unholstered their pistols and indicated that they each believed the tactical situation could escalate to the point where deadly force may be justified based on the comments of the radio call, multiple shots fired radio calls, and the “officer needs help” broadcast. Officer C stated that he/she looked down the walkway and observed the Subject lying on the ground, attempting to toss an item over the fence. Officer C believed the item was possibly a gun. Officer C alerted Officers B and D of his/her observations. Based on the information of the radio call, and his/her observations, Officer C believed more than one Subject was involved and did not want to rush into the walkway; therefore, they waited for an additional unit to arrive.

According to Officer D, Officer C had a line of sight of the Subject and relayed his/her observations to him/her that the Subject was tossing an item over the fence. Officer D stated that as additional units arrived on scene, he/she became the communications officer between the officers on scene, the Air Unit, and the units arriving. Officer D

added that he/she requested an officer with a shotgun or rifle and a Bean Bag shotgun to approach the Subject.

According to Officers E, F, G, and H's DICVS and BWV, they were the second and third units to arrive at the scene and arrived at approximately 14:31:08 hours. Upon arriving, Officers E, F, G, and H exited their vehicles.

The driveway gate began to open, and Witness A stepped up to the gate and flagged the officers down. Witness A directed Officers E, F, G, and H to Officer A. Officer A sat on the ground; his/her back was leaning against the vehicle's front driver's side bumper, and he/she had blood on his/her head, face, arms, hands, and right leg.

Officers E, F, G, and H indicated they unholstered their pistols upon exiting their vehicles and entering the underground garage. Each officer provided their reasoning for unholstering their pistols and provided similar statements of why they unholstered. Officers E, F, G, and H believed the tactical situation could escalate to the point where deadly force may be justified because of the radio calls' comments, multiple calls of shots fired, and the "officer needs help" broadcast. The Subject or victim had not been identified, and there was also the potential that additional suspects could be armed and hiding.

According to Officer G's BWV, at 14:31:35 hours, as the officers reached Officer A in the garage, Officer A immediately told the officers, "The suspect is on the other side of the house!" Officer F asked, "What did he look like?" and Officer H asked, "Where is he?" Officer A responded with providing a description and providing his location. Officer G held a small towel on Officer A's chest and told Officer A to lay down. Officer A lay on the ground, and simultaneously, Witness A reached down with her left hand and slid a pistol across from Officer A's left inner thigh to just outside the garage. Witness A immediately reached with her left hand near Officer A's right foot and slid a second pistol across the ground to the same area where the first pistol ended just outside the garage.

At 14:31:43 hours, Officer G stated, "Get the ambulance here right now." Witness A reached down to the ground, picked up the remote control to the garage gate and handed it to Officer E. Officer G asked Officer A, "Where are you shot?" Officer A responded, "In the leg and my chest!" Officer A moaned and appeared to be suffering severe pain. Officer G told Officer A the ambulance was at the scene, and they were going to take care of him/her. Officer G asked for a hobble to tie around Officer A's right upper leg. Officer G used his/her left hand to remove Officer A's belt and applied the belt around Officer A's right upper leg.

Per Officer H's BWV, at 14:31:35 hours, Officer A provided the Subject's description and location; Officer G directed Officer H to get the ambulance into the garage. Officer H ran toward the garage door gate, utilized his/her hand-held radio, and broadcast, "Let me get the RA inside the garage." The garage gate was closed; Officer H shook the gate and yelled at officers out on the street, "Hey, get the RA in here!"

According to Officer E, when he/she and Officers F, G, and H arrived on the scene, he/she observed a police black and white vehicle and Officers B, C, and D holding a walkway on the south side of the building. Per Officers E and F, Witness A advised them that Officer A was an off-duty LAPD officer; he/she was down in the garage and directed them inside the underground parking garage to Officer A's garage. Officer F indicated that he/she assessed the situation and knew they were going into a "hot zone" because the Subject was outstanding, and his location was unknown. Officer F added that regardless of the situation and with the information an officer was down, they would go in to render aid.

Officers E and F indicated that once they reached Officer A, Officers G and H went down to the ground and rendered aid to Officer A. Officers E and F moved forward and provided cover for Officers A, G, and H. Officers E and F visually cleared the east side of the underground parking garage, including the vehicles parked in the guest parking spaces. Officer E indicated that he/she pulled the gate on the south side leading to the pool and attempted to open it, but the gate would not open, and he/she believed it was locked. Officers E and F indicated they holstered their pistols and returned to Officer A's garage. Officer E stated that he/she took the remote control for the garage gate from Witness A, and he/she kept the garage gate open to allow resources to come inside. Officer F indicated that he/she went into life-saving mode and aided Officer A.

According to Officer G, when they arrived, Witness A advised them that Officer A was an off-duty LAPD officer and had been shot. Witness A directed them to the underground parking garage and guided them to Officer A. Officer G stated that he/she holstered his/her pistol upon seeing Officer A bleeding and added that Officers E and F provided cover and cleared the east side of the underground parking garage.

Officer G stated that he/she removed his/her Sam Browne duty belt and placed it on the ground next to Officer A because he/she observed Officer A bleeding from the chest and did not see towels near him/her. Officer G explained that he/she removed his/her Sam Browne because he/she intended to remove his/her uniform shirt to cover Officer A's chest wounds and apply pressure to the wounds with it.

After removing his/her Sam Browne, Officer G observed a towel; he/she grabbed the towel and applied pressure to Officer A's chest wounds. Officer G discovered that Officer A had a gunshot wound to the leg; he/she removed Officer A's belt and applied it as a tourniquet around Officer A's upper right thigh.

According to Officer G's BWV, at 14:32:15 hours, as Officer G removed Officer A's belt and used it to apply a tourniquet, the volume to the officers' hand-held radios next to Officer A was loud, and the radio communications on the frequency could be overheard. Officer D alerted the Air Unit that the Subject was on the south side of the building and broadcast pertinent information including that the Subject was shot and was wearing Officer A's ballistic vest.

According to Officer H's BWV, at 14:32:40 hours, as the officers learned that the Subject was wearing Officer A's ballistic vest, Officer F directed Officer H to broadcast the information. Van Nuys Area base frequency was busy with multiple broadcasts, Officer H appeared to broadcast the information that the Subject was wearing the vest, but Officer H's broadcast did not go through the frequency.

According to Officer G's BWV, at 14:33:15 hours, Officer G suggested that Officers F and H move Officer A to a police vehicle. Officer H lifted Officer A's left leg; Officer F lifted the right leg. Officer G moved behind Officer A, placed his/her right and left hands under Officer A's underarms, and lifted Officer A off the ground. Officers F, G, and H carried Officer A outside to the street. As they carried Officer A through the garage, Officer G stated, "Get my gun!" Simultaneously, Officer H pointed to his/her right and down toward the ground. At 14:33:37 hours, as Officers F, G, and H, moved toward the street; Officer G yelled, "Hey! Get over here! Hey! My gun is over there! My gun is over there!" to Officers E, I, and J, who stood at the garage door gate and ran toward Officer A's garage.

According to Officer J's BWV, at 14:33:40 hours, Officers I and J ran to Officer A's garage. At 14:33:52 hours, Officers I and J arrived at the garage and contacted Witness A.

According to Officer G's BWV, at 14:33:47 hours, once on the street, Officers F, G, and H, placed Officer A on the ground. Los Angeles Fire Department (LAFD) paramedic personnel immediately began to treat Officer A and transported him/her to a nearby hospital, where he/she was admitted for multiple gunshot wounds. Officer G accompanied Officer A in the RA.

According to Officers F, G, and H, they believed the ambulance and paramedics would not enter the garage and render Officer A medical aid because the garage was still a "hot zone." Officer G added that Officer A bled a lot, and he/she did not want him/her to bleed out. Officers F, G, and H collectively decided to carry Officer A out to the street. Officers G indicated that as they carried Officer A outside, he/she alerted the officers running toward the garage that he/she had left his/her Sam Browne with his/her pistol behind. Officer H stated that as he/she crossed paths with the officers running toward Officer A's garage, he/she alerted them to watch for the guns on the ground, including Officer G's pistol in the Sam Browne.

According to Officers K and L's DICVS and BWV, they were the fourth unit to arrive on scene at 14:31:45 hours. Officers K and L exited their vehicles and approached Officers B, C, and D who stood on street and held the south side of the complex.

According to Officer L's BWV, at 14:31:50 hours, Officer C briefed Officers K and L that the Subject was down on the walkway. Officer D turned to Officer L and asked, "Does someone have a long gun?" Officer L responded that he/she had one and immediately ran to his/her vehicle. As Officer L ran in front of the townhouse driveway, Officer H stood inside the closed garage gate and yelled, "He's here!" Officer L told Officer H that

another person (the Subject) was on the south side of the building. Officer L walked to the trunk of his/her vehicle and retrieved his/her shotgun.

As Officer L returned to meet with Officers B, C, D, and K, he/she slung his/her shotgun with the barrel pointed toward the ground, loaded a slug round into the shotgun chamber, and two additional slug rounds into the magazine tube.

According to Officer L, he/she deployed his/her shotgun because he/she knew guns had been used, and shots were fired. The walkway where the Subject lay was long, narrow, and he/she wanted a more accurate weapon system if the situation rose to deadly force. Officer L stated that his/her shotgun was loaded to patrol ready, with four buckshot rounds in the magazine tube. Officer L indicated that he/she loaded three slug rounds into his/her shotgun because it would be more effective.

According to Officer K's BWV, at 14:32:35 hours, Officer E opened the garage door gate and walked outside. Officer K walked toward the driveway, met with Officer E, and asked if he/she knew Officer A's location. Officer E pointed to the underground garage and advised Officer K that Officer A was in the garage. Officer K returned to Officers B, C, and D and advised them that Officer A was inside the garage, and officers were with him/her.

According to Officer L's BWV, at 14:32:58 hours, Officer L told Officers B, C, D, and K, "Hey, we're here! Let's go!" Officer L moved forward holding his/her shotgun in a low-ready position and walked through the grass area of the front yard toward the metal gate leading the walkway. Officer L stood on a small retaining wall approximately 15 feet from the metal gate and gave the Subject commands. Officer L yelled, "Hey! Let me see your hands!" Officer L moved forward toward the metal gate, stepped to the left of gate, behind the building wall and yelled, "Keep your hands visible! Keep your hands where I can see them!" Officer L asked for someone to open the gate.

According to Officer B's BWV, at 14:33:08 hours, as Officer L approach the metal gate, Officer D asked for a Beanbag shotgun. Officer B ran to the trunk of his/her vehicle and retrieved a Beanbag shotgun. Officer B ran back to the walkway and joined Officers C, D, L, and K.

According to Officer K's BWV, at 14:33:20 hours, when Officer L asked for someone to open the gate, Officer K stepped forward and opened the gate. Officer K held the gate open for officers to enter the walkway. Officer L was the first to enter with his/her shotgun in a low-ready position pointed toward the Subject. As he/she moved forward into the walkway, Officer L told the Subject, "Stop moving! Stop moving your hands! Keep your hands in the air! I need to see them!" Officer D followed behind Officer L, while Officer B followed behind Officer D and moved past Officer D, slightly behind Officer L and to Officer L's right side.

Officers B, D, K, and L, moved forward and approached the Subject. Officer L continued giving the Subject commands. The Subject lay on his back in a supine

position, with his feet pointing west and his head east. Officer A's ballistic vest was on the ground approximately ten feet west of the Subject's feet. There was blood on the ground and the wall on the south side of the walkway. Officer D broadcast that they were contacting the Subject in the walkway on the south side of the building and trying to take him into custody. Officer L stopped a few feet in front of the Subject, asked officers to check on the other side of the south wall, and Officer C advised Officer L that he/she did not see anyone on that side.

At 14:33: 53 hours, Officer L alerted the officers that he/she would walk past the Subject and stated, "I'm stepping over!" and stopped approximately two feet past the Subject. The Subject's arms rested across his chest, his face, and his arms and legs were covered in blood. The Subject told the officers, "I'm dying! I feel like I'm dying!" Officer B walked past the Subject and stopped behind Officer L.

Officer K stopped next to the Subject, bent over, and reached down. The Subject told Officer K, "Please don't put the handcuffs on me." Officer K told the Subject to calm down, and the Subject replied, "My leg is broken; look at my bone!" Officer K placed his/her hands on the Subject's hands, held the Subject's arms against the Subject's chest, and asked for his name and if he had any weapons on him. The Subject stated his name, advised he needed medical attention, and asked if Officer K would call an ambulance. Officer K told the Subject that an ambulance was on its way and asked him what happened. The Subject stated that that he had a warrant for his arrest. The Subject complained of pain and told Officer K he was shot.

At 14:34:50 hours, the Subject moved his hands away from his chest; Officer K grabbed the Subject's left wrist with his/her right hand and the right wrist with his/her left hand and told the Subject to turn to his side. Officer C reached down and grabbed the Subject's left wrist with his/her left hand. Officers C and K rolled the Subject to the right and into a prone position with his arms behind the lower back. Officer K used his/her left hand to hold the Subject's left hand behind the Subject's lower back, and Officer C used his/her left hand to hold the Subject's right arm behind the Subject's lower back. Officer C completed handcuffing the Subject. The Subject continued to complain of pain and told officers he had a broken leg. Officers C and K rolled the Subject onto his left side and ultimately into a seated position. The Subject's t-shirt was soaked in blood, and his head was covered in blood as well.

According to Officer L, he/she directed Officer B to sling the Bean Bag shotgun and unholster his/her pistol. Officers B and L proceeded to clear the pool area. According to Sergeant A's BWV, at 14:34:30 hours, Sergeant A arrived on the scene. As Sergeant A approached the driveway, officers were running into the underground garage. Sergeant A told these officers to slow things down. Sergeant A and the officers entered the underground garage and walked toward Officer A's garage. Simultaneously, Officer D broadcast that the officers on the south side of the building were making contact with the Subject and taking him into custody. As Sergeant A approached Officer A's garage, Witness A walked away from the garage and ran toward the street. Sergeant A stopped Witness A and asked her if she was involved in the

incident. Witness A advised Sergeant A that she was inside the house and identified herself.

Once Sergeant A reached Officer A's garage, Officer D broadcast that the Subject was in custody on the south side of the building. Sergeant A directed an officer to give an announcement to have anyone inside the townhouse come outside. Sergeant A directed officers to clear the vehicles inside Officer A's garage, the vehicles in the guest parking stalls, and the townhouse rear yard. Additionally, Sergeant A directed the officers on the south walkway of the building to move away from the windows and ultimately directed the officers in the garage to clear Officer A's townhouse.

According to Sergeant A, an officer identified that the Sam Browne that was on the ground belonged to Officer G. Sergeant A directed Officer I to retrieve the Sam Browne and give it to Officer H, so that Officer H could deliver it to the hospital and Officer G would be properly armed.

According to Officer C's BWV, at 14:37:20 hours, the Subject sat on the ground with his feet extended in front of him, and Officer K stood behind the Subject, bracing the Subject's upper torso to sit up. Officer D told Officers C and K to move the Subject away from the windows. Officer C moved in front of the Subject and faced him. Officer C bent down, grabbed the Subject's ankles with both hands, and lifted the ankles off the ground. Officer K grabbed the Subject's right and left rear shoulder, and together with Officer C, they lifted the Subject off the ground and moved him several feet toward the street and stopped.

Officer C asked Officer D if they should take the Subject out to the street. Officer D stated no, because there was another possible outstanding suspect. Officer B turned to Officer C and told the officers to continue moving the Subject.

According to Officer B's BWV, at 14:39:00 hours, Officers B and C suggested that they lift the Subject and move him out to the street. Officer K rolled the Subject to the right and onto his back. The Subject screamed in pain and asked if he could get up to his knees and asked for an ambulance. Officer K told the Subject that it was going to hurt, but they were going to move him and get him to an ambulance. Officers B, D, and K lifted the Subject and moved him to the grass area in the front yard.

According to Officer D's BWV, at 14:42:10 hours, Sergeant B approached the officers with the Subject and suggested the officers move the Subject behind the cover of a vehicle because the area was still "Hot." Officers moved the Subject from the grass area of the front yard to west side of the street. The officers placed the Subject on the ground along the driver's side of a black and white patrol vehicle that was parked facing north on the west side of the street.

At 1444:15 hours, Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) arrived on scene and medically assessed the Subject. The Subject was transported to a nearby hospital where he was admitted for multiple gunshot wounds. Officer D

accompanied the Subject in the RA. The Subject's injuries were non-life threatening and he was subsequently arrested for the attempt murder of Officer A.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	N/A	N/A	N/A	N/A	N/A

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

The BOPC found Officer A's tactics warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officer A's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force to be In Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may

use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

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

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct on the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer’s alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover,

any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

Use of Force – Deadly: It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force: The Department will analyze an Officers use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the Officers training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Warning Shots: It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an Officers use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), "[A] threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of

future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots: The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

A. Tactics

Tactical De-Escalation

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

Planning – Officer A was off-duty and at his/her residence preparing for work. Although he/she did not plan to encounter the Subject, Officer A armed him/herself with his/her service pistol as he/she loaded his/her vehicle with his/her equipment. Officer A's vehicle was parked in his/her attached garage with the garage door open. Officer A entered his/her garage and noticed his/her driver's door was open. Officer A then observed the Subject crouched behind the driver's door. The BOPC commended Officer A's mindset and preparation as he/she prepared for work, holstering his/her service pistol on his/her person.

Assessment – Observing the Subject crouched behind the driver's door and his/her equipment bag on the ground behind the Subject, Officer A assessed that he was a burglar; Officer A did not recognize the Subject. After he/she was shot by the Subject, Officer A assessed the situation, recognized that he/she was in a disadvantageous position, and the need to redeploy.

Time – Upon entering his/her garage, Officer A immediately encountered the Subject. Officer A moved to the front of his/her car, creating distance, and ordered the Subject to leave. In response, the Subject shot Officer A. The Subject's actions limited Officer A's ability to use time as a de-escalation tool.

Redeployment and/or Containment – When Officer A attempted to redeploy toward the street, the Subject pursued and shot him/her. As Officer A lay on the ground, the Subject closed distance while shooting at him/her. The Subject then physically engaged Officer A. During the physical altercation, Officer A disarmed the Subject. Officer A took possession of both handguns and redeployed to his/her garage. The BOPC noted that after the first volley of gunfire, Officer A attempted to redeploy toward the street, using the best route to minimize his/her exposure. The BOPC also noted that the Subject's actions limited Officer A's ability to redeploy. The BOPC further noted that after the physical altercation with the Subject, Officer A, despite being shot multiple times, redeployed to his/her garage.

Other Resources – As this incident was spontaneous and occurred while Officer A was off-duty, he/she did not have the benefit of additional resources readily

available. However, to obtain additional police and fire resources, Officer A pleaded with witnesses to call 9-1-1. When he returned to the garage, Officer A directed Witness A to call 9-1-1.

Lines of Communication – Before the OIS, Officer A identified him/herself as a police officer and told the Subject to leave. After the OIS, as Witness A was speaking to CD, Officer A stated, “Off-Duty officer shot three times.” Witness A repeated the information to CD and provided the address. In response, CD immediately broadcast on Van Nuys frequency that an off-duty officer had been shot. When located by officers, Officer A provided them with the Subject’s location and description, informing them that the Subject was wearing a ballistic vest. The BOPC noted that as this incident was spontaneous and occurred while Officer A was off-duty, his/her communication options were limited. Despite this, Officer A attempted to communicate with the Subject and witnesses.

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

1. Off-Duty Actions

While at his/her residence, preparing for work, Officer A observed the Subject in his/her attached garage crouched behind the open driver’s door of Officer A’s vehicle. Officer A believed the Subject was possibly a burglar. Knowing that burglars typically carry weapons, Officer A unholstered his/her service pistol, identifying him/herself as a police officer, ordered the Subject to show his hands and to leave his/her property. The Subject responded by shooting Officer A, resulting in an OIS.

The BOPC considered off-duty actions. The BOPC noted that unless presented with no other option, it is recommended that officers refrain from taking enforcement action. While Officer A identified him/herself as a police officer, the BOPC noted that his/her intention was not to take enforcement action but to get the Subject out of his/her attached garage and away from his/her home. The BOPC noted that at the time of this incident, Witness A was inside Officer A’s home. Rather than attempt to detain the Subject, Officer A allowed him/her to leave without confrontation. Rather than leave, the Subject repeatedly tried to murder Officer A. Despite being shot, Officer A attempted to disengage, redeploying toward the street. Instead of fleeing, the Subject chose to pursue and shot Officer A again. As Officer A lay on the ground, the Subject closed the distance while shooting at him/her. The Subject then physically engaged Officer A. Following the physical altercation, Officer A disengaged again. When responding officers arrived, Officer A acted as a witness. While Officer A did not intend to engage the Subject, the BOPC opined that the Subject’s actions left Officer A with no other option than to defend him/herself.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officer A were not a deviation from approved Department tactical training.

- During the review of this incident, no Additional Tactical Debrief Topics were noted.

Command and Control

- Sergeant A arrived on the scene at 14:34:30 hours. The first supervisor to arrive, Sergeant A took command and control of the incident. Observing a group of officers entering the subterranean parking structure, Sergeant A met with the officers and ensured that they moved at a controlled pace. After clearing the parking structure, Sergeant A directed an officer to gather information from Witness A. Sergeant A formulated a tactical plan, assigned roles, developed a search team, and directed officers to clear Officer A's residence for additional victims and/or Subjects. After completing the search, Sergeant A established a crime scene log and identified evidence. According to Sergeant A, he/she did not verbally declare him/herself as the Incident Commander (IC) over the air, due to the radio traffic and lack of a tactical frequency. Due to Officer A being transported to the hospital in critical condition, separation and monitoring protocols were not established.

The BOPC determined that the actions of Sergeant A were consistent with Department training and the BOPC's expectations of supervisors during a critical incident.

These topics were to be discussed at the Tactical Debrief.

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

In conducting an objective assessment of this case, the BOPC determined that Officer A's actions were not a deviation from approved Department tactical training.

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

The BOPC found Officers A's tactics to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

- **Officer A**

Officer A opened the interior door to the garage, walked out of the townhouse, and observed that the vehicle driver's side door was open. According to Officer A, he/she had not left the driver's door open, nor was it his/her practice to leave the vehicles open or unlocked. Officer A backed up and stood in front of the vehicle to get a better view. Officer A then observed the Subject crouched behind the driver's door, between the door and the vehicle's frame. Officer A also observed that his/her equipment bag was on the ground behind the Subject; Officer A did not recognize the Subject. Because the Subject had entered his/her attached garage and had broken into his/her vehicle, Officer A considered the Subject to be a burglar. Knowing that burglars typically carry weapons, Officer A unholstered his/her service pistol, held it in a low-ready position, and identified him/herself as a police officer.

The BOPC evaluated Officer A's drawing and exhibiting of a firearm. The BOPC noted that Officer A was off-duty when he/she encountered a burglar in his/her attached garage and crouched behind his/her vehicle's open driver's side door. The BOPC also noted that Officer A believed that burglars carried weapons capable of causing serious bodily injury or death. In response, Officer A unholstered his/her service pistol and identified him/herself as a police officer. Based on the Subject's actions, the BOPC felt that it was reasonable for Officer A to unholster his/her service pistol.

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

Therefore, the BOPC found Officer A's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

- **Officer A** – (pistol – two volleys, sixteen rounds)

Background – During volley one, Officer A's background consisted of a cinder block wall in the rear of his/her garage, behind his/her vehicle. During volley two, Officer A's background consisted of the townhouse complex's east wall and the business east and west walls.

Volley One – Four rounds in a southerly direction from approximately eight to ten feet.

Officer A observed that the Subject was wearing his/her ballistic vest. Officer A identified him/herself as a police officer and ordered the Subject to show his hands. Officer A told the Subject to get out of the garage and leave. The Subject responded, "You're going to have to kill me!" The Subject then stood up, pointed a handgun at Officer A, and fired two rounds from behind the driver's door, striking Officer A twice in the chest. Officer A believed he/she had sustained a serious gunshot wound and feared for his/her life. In response, Officer A discharged his/her service pistol at the Subject. Because the Subject was wearing the ballistic vest, Officer A aimed for the Subject's right arm. Officer A believed that he/she discharged three to four rounds at the Subject.

Volley Two – 12 rounds in an easterly direction. Based on the available evidence, FID investigators were unable to determine the distance for Volley Two.

Following the first volley of gunfire, Officer A redeployed and ran out of the parking structure to the southern walkway of the complex. Officer A planned to run along the building's south walkway to the street. As he/she ran in the walkway toward the street, Officer A could no longer breathe and could go no further. Officer A estimated that he/she ran approximately 45 feet from the pool area before he/she collapsed and fell to the ground. As he/she sat on the ground, facing the pool area, Officer A observed the Subject walking toward him/her, wearing the ballistic vest, and firing at him/her. Officer A believed the Subject shot him/her in his/her right upper hamstring at that point. From a seated position, Officer A aimed at the Subject and discharged what he/she believed were 10 rounds from his/her service pistol. Due to his/her injuries, Officer A's ability to raise his/her arm was limited, forcing him/her to aim for the Subject's legs. The investigation determined that Officer A discharged 12 rounds during the second volley. Because the Subject bled from the shin area, Officer A believed that he/she struck one of the Subject's legs with his/her rounds.

The BOPC assessed the reasonableness, necessity, and proportionality of Officer A's use of lethal force during volleys one and two. Regarding volley one, the BOPC noted that Officer A observed the Subject crouched behind the vehicle's open driver's door, wearing a ballistic vest. While Officer A had identified him/herself as a police officer and told the Subject to leave his/her garage, the Subject refused, stating, "You're going to have to kill me!" The Subject then stood up and shot Officer A twice in the chest. The BOPC noted that Officer A knew he/she had been struck by gunfire and feared he/she had sustained a serious or life-threatening injury. In response, Officer A discharged four rounds from his/her service pistol at the Subject to stop the deadly threat. The BOPC opined that the Subject's actions during volley one presented an imminent threat of death or serious bodily injury to Officer A. Based on the totality of the circumstances, the BOPC determined that Officer A's actions during volley one were proportional, objectively reasonable, and necessary to stop the deadly threat posed by the Subject.

Regarding Volley Two, the BOPC noted that instead of fleeing after the first volley, the Subject chose to pursue Officer A, as evidenced by video footage. As Officer A lay on the ground, the Subject closed distance while shooting at him/her, striking Officer A's leg. The BOPC noted that due to Officer A's injuries, his/her ability to raise his/her arm was limited, forcing him/her to aim for the Subject's legs. The BOPC noted that as Officer A discharged his/her service pistol at the Subject, the Subject was continuing to advance toward him/her, demonstrating his intent to kill or seriously injure Officer A. The BOPC also noted that as Officer A discharged his/her service pistol, Officer A feared for his/her life. The BOPC further noted that after volley two, the Subject fell on top of Officer A and wrestled for his/her gun, demonstrating that he/she still posed a deadly threat. The BOPC opined that the Subject's actions during volley two presented an imminent threat of death or serious bodily injury to Officer A. Based on the totality of the circumstances, the BOPC determined that Officer A's actions during volley two were proportional, objectively reasonable, and necessary to stop the deadly threat posed by the Subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe that the use of deadly force was proportional, objectively reasonable, and necessary.

Therefore, the BOPC found Officer A's lethal use of force - both volleys - to be In Policy.

- **Officer A - Intentional Head Strikes with a Device**

Following Officer A's second volley of gunfire, the Subject continued to advance toward Officer A with the handgun pointed in Officer A's direction. According to Officer A, he/she had impaired vision, difficulty breathing, and felt he/she was losing consciousness. When the Subject reached Officer A, the Subject fell on top of him/her, and they began to wrestle for each other's handguns. As they wrestled, the Subject placed the handgun against Officer A's abdomen and said he was going to kill him. While the Subject's finger was on the trigger, the handgun did not discharge. As they continued struggling, the Subject continued trying to use the handgun against Officer A. Realizing his/her service pistol was out of ammunition, and that the Subject was still armed, Officer A feared for his/her life. To defend him/herself from serious bodily injury or death, Officer A struck the Subject twice on top of the head with the bottom of his/her service pistol.

The BOPC assessed the reasonableness, necessity, and proportionality of Officer A's use of head strikes. The BOPC noted that from the beginning of this incident, the Subject had demonstrated a propensity for violence, donning a ballistic vest, arming him/herself with Officer A's backup weapon, and ostensibly taking the spare magazines from Officer A's duty belt. When told to leave the garage, the Subject said that Officer A would have to kill him. The Subject then shot Officer A twice. The BOPC noted that after volley two, the Subject was still trying to shoot Officer A,

placing the handgun against Officer A's abdomen and threatening to kill him/her. The BOPC noted that as Officer A fought with the Subject, Officer A was having difficulty breathing, and felt he/she was losing consciousness. Out of ammunition, and believing he/she may die, Officer A used his/her service pistol to strike the Subject on the head twice. This was done to defend him/herself from further serious bodily injury or death. The BOPC noted that when he/she delivered the head strikes, Officer A's force options and resources were limited. While Officer A had screamed for help, help had not yet arrived. The BOPC opined that the Subject's actions presented an imminent threat of death or serious bodily injury to Officer A. Based on the totality of the circumstance, the BOPC determined that Officer A's use of two head strikes was proportional, objectively reasonable, and necessary to stop the deadly threat posed by the Subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would reasonably believe that the use of deadly force was proportional, objectively reasonable, and necessary.

Therefore, the BOPC found Officer A's lethal use of force - both head strikes - to be In Policy.